

An Examination of Youth Perceptions and Understandings of their Experiences with  
Extrajudicial Sanctions in Relation to Key Principles of the *YCJA*

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### **Abstract**

It is unclear how the principles of meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration under the *Youth Criminal Justice Act* (2003) are understood and experienced by youth participating in diversion from youth court. Interviews with 20 youth revealed that, from their understanding, extrajudicial sanctions were viewed as accomplishing the goals of meaningful consequences and fair and proportionate accountability relatively well, but less emphasis was placed on rehabilitation and reintegration. The findings suggest that there may be a need an examination of the spectrum of responses available to youth under the umbrella of Extrajudicial Sanctions and their ability to achieve the key principles of the legislation. Implications for both youth and policy are addressed.

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## Introduction

Prior to the introduction of the *Youth Criminal Justice Act (YCJA)*, it was reported that youth were receiving sentences of incarceration at a rate four times higher than adults and that Canada's youth were incarcerated at a rate approximately twice as high as youth in the United States and ten to fifteen times higher than youth in Australia, New Zealand and some European countries (Bala & Anand, 2004). High rates of youth incarceration were problematic because of both its expense, and because it is not necessarily effective in addressing youth crime (Bala & Anand, 2009). Additionally, it has been suggested that prolonged involvement with the justice system as a young person, and obtaining a criminal record, may result in unwarranted labelling, which has been linked to difficulty with social adjustment and human relationships, problems staying in school, difficulty obtaining employment, and the possibility of a greater propensity to engage in crime as an adult (Lo, Maxwell & Wong, 2006; Pager, 2003; Doob & Cesaroni, 2004; MacLure, Campbell & Dufresne, 2003). It became evident that in order to address these issues, there was a need for a legislative change. Introduced in 2003, one of the main goals of the *Youth Criminal Justice Act (YCJA)* was to reduce Canada's over-reliance on custody. One way the new legislation attempted to accomplish this goal was through the increased use of diversionary measures and a reactivation of community involvement (MacLure, Campbell & Dufresne, 2003; Mann, Girard, Senn, & Ackbar, 2007).

Previously referred to as Alternative Measures under the *Young Offenders Act (YOA)*, diversion has emerged under the *YCJA* in the form of Extrajudicial Measures (sections 6, 7, and 8) and Extrajudicial Sanctions (section 10). Extrajudicial Measures (EJMs) in Ontario are pre-charge diversions that can include a warning, a caution, a referral to a program or agency in the community, or simply taking no further action (*YCJA*). If it is believed that a young person

cannot be adequately dealt with by way of an EJM, after being formally charged, s/he may be offered an Extrajudicial Sanction by the Crown. When a young person accepts an EJS under section 10(2)(c) s/he may be required to complete one or more of the following: a written or verbal apology; write an essay; make a poster; community service; attend counselling; attend an education/information session; make a charitable donation; accept a referral to a specialized crime prevention program; and attend peer mediation<sup>1</sup> (Harris, Weagant, Cole & Werinper, 2004).

Canada's current youth justice legislation is built upon three major principles that are intended to address youth offending behaviour: ensuring that responses to youth crime provide the young person with a consequence that is meaningful; that the response is a fair and proportionate way to hold the young person accountable; and that any response should encourage rehabilitation and reintegration of the young person back into society. Despite the fact that these principles appear in multiple sections throughout the *YCJA*, there is little clarification on what they mean in practice or how they should be interpreted by key members responsible for responding to youth crime. Furthermore, there is limited research on the ways in which these principles are reinforced through diversionary measures and few studies examine the presence of these principles within diversion from the perspective of the young person, whom these principles are intended to impact.

The importance of these key principles and the reinforcement of diversionary measures, as an important way to deal with youth offending under the *YCJA*, necessitate an exploration of the ways in which these measures are being implemented, and in particular, the ways in which youth understand these key principles through their experiences with diversion. The perspective

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<sup>1</sup> Before a young person can undertake an EJS, s/he must accept responsibility for the alleged "act or omission that forms the basis of the offence...."



of the young person is of utmost importance because they are the individuals the key principles are intended to impact and the only ones who can report on the lived experiences from within these extrajudicial sanctions. As a result, for the purpose of this project, the following research questions were asked:

1. What do meaningful consequences mean to youth receiving extrajudicial sanctions?
2. To what extent are youth who are receiving extrajudicial sanctions programs experiencing meaningful consequences?
3. Are youth who are completing extrajudicial sanction programs being held accountable in a fair and proportionate way from their perspective?
4. Are youth rehabilitated and reintegrated into the community in a way that is meaningful to them?

## Literature Review

### *A History of Youth Justice in Canada*

Canada's youth justice system has changed considerably from the time when youth were first separated from adults under the law. The *Juvenile Delinquents Act (JDA)* of 1908 was the first comprehensive delinquency legislation in this country (Doob & Cesaroni, 2004). It was recognized under the *JDA* that children are different from adults and, as such, it is important to treat them differently under the law. Therefore, prior to exploring youth perceptions of their experiences with the justice system in the current study, it is important to understand historical versions of Canada's youth justice legislations in order to gain perspective on the evolution of diversion for young persons in conflict with the law and the key principles guiding responses to youth crime.

#### *Juvenile Delinquents Act (JDA)*

The *Juvenile Delinquents Act (JDA)* was based on a welfare principle that emphasized rehabilitation. Under this principle, the system focused on helping to meet the needs of children as opposed to punishing them for unacceptable behaviour (Bell, 2003). This perception of children and youth supported a justice system for young persons that drew from the doctrine of "*parens patriae*" or the "parent of the country" (Bell, 2003, p.43). Such a philosophy constructed youth as wayward and encouraged the state to play the role of the parent in order to look out for the best interest of the young person. For example the use of custody facilities during this time was conceived as a way of providing structure for youth who may come from a "corrupting situation at home" (Bala & Roberts, 2006, p.39).

The welfare model under the *JDA* reinforced the individualized treatment of children, leading to indeterminate sentences. The court could retain legal control over a child of 7 years

until he or she was an adult. For example, a child suspected of committing an offence could be sent to secure custody and released when it was deemed appropriate (Doob & Cesaroni, 2004). A young person who broke the law was seen as immature (Maclure, Campbell & Dufresne, 2003), and “a misdirected and misguided “child” needing aid, encouragement, help and assistance” (Section 38 of the *JDA*). Additionally, Section 3(2) of the Act stated that “where a child is adjudged to have committed a delinquency he shall be dealt with not as an offender, but as one in a condition of delinquency and therefore requiring help and guidance and proper supervision.”

Despite the underlying rehabilitative emphasis of the *JDA*, the responses to youth offending were not necessarily considered lenient. Although in some cases youth (who were usually from “good homes”) might receive a lighter sanction, in many cases youth who needed ‘treatment’ were often placed in custody for long periods of time (Doob & Cesaroni, 2004; Bala & Roberts, 2006). In addition to this, there was discontent around status offences (such as sexual behaviour, disobeying parents, incorrigibility, etc.) which were based solely on the age of the individual (Bell, 2003). With the presence of relatively harsh punishments for youth, one area of growing concern was that recidivism rates were not being reduced (Bala & Roberts, 2006). In response to these critiques, among others, and the introduction of the *Canadian Charter of Rights and Freedoms*, there was a corresponding shift in the youth justice system.

### ***Young Offenders Act (YOA)***

The *Young Offenders Act (YOA)* was enacted in 1984, after almost 80 years under the *JDA*. A major influence in this shift in youth legislation, in addition to the critiques around indeterminate sentences, lack of rights, and discretionary decision-making, was the introduction of the *Canadian Charter of Rights and Freedoms* in 1982. The *Charter* presented specific rights

and legal protections for all Canadian citizens, and illuminated major inconsistencies within the *JDA*. In particular, Section 15 of the *Charter* had a significant impact on changes to youth justice legislation as it outlines rights in reference to the law. It states:

(1) Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

In light of these policy changes and in order to bring youth justice in Canada more in line with the *Charter*, the introduction of the *YOA* emphasized concepts of accountability, responsibility, protection of society, special needs, alternative measures, and legal rights and freedoms (Bell, 2003). In addition, this Act attempted to decrease the variation across provinces by the establishment of a “uniform national age jurisdiction of 12 through to the 18<sup>th</sup> birthday” (Doob & Cesaroni, 2004).

Despite these seemingly positive improvements to the youth justice system, members of the public lacked confidence in the *YOA*. In particular there was growing concern over the perceived increase in youth crime rates and the severity of crimes committed by youths. As suggested by Carrington and Schulenberg (2005), this perceived increase may be explained by a multitude of factors including: an influx of older youth being treated in the youth justice system who would have been treated as adults under the previous legislation, more formal procedures under the *YOA*, lack of police confidence in the new law and the community’s ability to deal with crime through informal measures for less serious crime, zero-tolerance attitudes from the public and police, or simply inaccurate data on youth crime. Above all there was major concern around excessive leniency within the youth courts and the public perceived this to be a likely cause of the increase in youth crime rates (Roberts, 2003).

In response to these critiques, the *YOA* underwent a number of amendments. Bill C-106 and Bill C-12 were the first and second set of amendments that occurred in 1986 and 1991 respectively. These new amendments included: greater emphasis on the protection of the public for youth transferred to adult court; changes in parole eligibility for youth who were transferred to adult court; and an increase in the maximum sentence for murder (Bell, 2003; Bala & Roberts, 2006). These changes, among many others, ultimately led to an escalation in the use of custody and presumptive transfers (Bell, 2003; Doob & Cesaroni, 2004). Despite the legislative amendments, the public continued to blame the *YOA* for the perceived escalating rates of youth crime and became increasingly intolerant of youth crime and hostile towards the Act. In particular, concerns about the trajectory of the Act were mounted around areas such as the cost of incarceration, the lack of adequate attention towards victims of crime, and the use of custody for welfare concerns and minor offences (Bala & Roberts, 2006). In order to restore public confidence in Canada's youth justice system, the Department of Justice presented a new youth justice strategy in May of 1998. This new strategy stressed the importance of replacing the *YOA* with a new legislation and a focus on responding to youth crime in a different way (Doob & Cesaroni, 2004).

### ***Youth Criminal Justice Act (YCJA)***

The *YOA* was replaced by the *Youth Criminal Justice Act (YCJA)* in April of 2003. The *YCJA* attempts to accomplish "greater fairness in decision making, more effective use of limited resources, a clearer and more restrained role for the youth justice system, and more reasonable expectations of what the system can accomplish" (Barnhorst, 2004, p.248). In response to Canada's over-reliance on custody, the *YCJA* reserves custody and harsher punishments for more serious violent offenders, while encouraging alternative, community-based measures for less

serious offenders (Hartnagel, 2004). Specifically, there is an increased emphasis on diversion – through the use of extrajudicial measures and extrajudicial sanctions – for youth who commit less serious offences. As a result of this emphasis, in the years following the introduction of the current youth justice legislation, there has been an increased use of diversionary measures (Bala & Anand, 2004).

All responses under the *YCJA*, including diversion, flow from fundamental principles presented within the Act: meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration. Within the legislation it is made clear that these principles guide the youth justice system in Canada and the responses that are available to youth in conflict with the law. In particular, the *YCJA* is intended to address current youth offending behaviours by holding youth accountable in a way that is meaningful to them and as a result will promote their rehabilitation and reintegration back into society (Barnhorst, 2004). The Preamble of the *YCJA* explicitly states that:

Canadian society should have a youth criminal justice system that commands respect, takes into account the interests of victims, fosters responsibility and ensures accountability through meaningful consequences and effective rehabilitation and reintegration, and that reserves its most serious intervention for the most serious crimes and reduces the over-reliance on incarceration for non-violent young persons.

Furthermore, The Declaration of Principle (Section 3) reinforces these key principles in the following subsections:

3(1) The following principles apply in this Act:

(a) the youth criminal justice system is intended to

- (i) prevent crime by addressing the circumstances underlying a young person's offending behaviour,
- (ii) *rehabilitate* young persons who commit offences and *reintegrate* them into society, and
- (iii) ensure that a young person is subject to *meaningful consequences* for his or her offence in order to promote the long-term protection of the public;

(b) the criminal justice system for young persons must be separate from that of adults and emphasize the following:

- (i) *rehabilitation and reintegration*,
  - (ii) *fair and proportionate accountability* that is consistent with the greater dependency of young persons and their reduced level of maturity,
  - (iii) enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy are protected,
  - (iv) timely intervention that reinforces the link between the offending behaviour and its consequences, and
  - (v) the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time;
- (c) within the limits of *fair and proportionate accountability*, the measure taken against young persons who commit offences should
- (i) reinforce respect for societal values,
  - (ii) encourage the repair of harm done to victims and the community,
  - (iii) be *meaningful* for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's *rehabilitation and reintegration*, and
  - (iv) respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal young persons and of young persons with special requirements;...

*(emphasis added, YCJA, 2003, s.3(1)(a)(b)(c))*

Under the umbrella of these principles, the *YCJA* has introduced a number of significant changes to the *entire* youth justice system in Canada, from pre-charge diversion up until and including formal sentencing (Bala & Roberts, 2006; MacLure, Campbell & Dufresne, 2003, Doob & Cesaroni, 2004). In order to control for over-use, there are specific guidelines in place that have to be met in order to impose a custodial sentence.<sup>2</sup> New sentencing options were also

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<sup>2</sup> For example Section 39(1) places restrictions on the use of custody for non-violent offences, and 38(2)(d) states that "all available sanctions other than custody that are reasonable in the circumstances must be considered for all young persons". Furthermore Section 38(2)(e) puts forth that "the sentence must (i) be the least restrictive sentence that is capable of achieving the purpose set out in subsection (1)"

introduced in order to ensure that the sentencing of young persons corresponds with the purpose of the Act as outlined in the Declaration of Principle.<sup>3</sup>

According to a Statistics Canada report published in 2010, the objective of decreasing the use of custody under the *YCJA* appears to have been successful. In fact, 2008/2009 saw a 12% decrease in the number of youth cases that resulted in a sentence of custody from 2002/2003. The decrease in use of custody for youth in conflict with the law was consistent across the country (Bala, Carrington & Roberts, 2009).

As indicated by this report, not only are less youth being sentenced to custody, there has also been a decrease in the number of youth appearing in court in the first place, which is also consistent with the objectives of the *YJCA*. Therefore, it is important to consider how those youth, who may have been previously sentenced under the *YOA*, are now being dealt with under the current legislation. One way that these youth are possibly being dealt with is through the use of diversion in the form of extrajudicial measures and extrajudicial sanctions.

### ***Diversion***

As previously noted, it is explicitly stated within the Preamble of the *YCJA*, that responding to youth offending outside of the traditional justice system is of utmost importance in Canada today. In this way, the *YCJA* is significantly different from its earlier counterparts as it has an increased emphasis on non-judicial responses for young

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<sup>3</sup> Some of these new sentences included: two rehabilitative community-based sentences (attendance order and the intensive support and supervision order); blended use of a community supervision order in addition to any custody sentence; and the intensive rehabilitative custody and supervision order (IRCS).



persons in conflict with the law. Although the *YOA* included diversion through the use of 'Alternative Measures', the *YCJA* has integrated that strategy under Extrajudicial Measures (EJM) and Extrajudicial Sanctions (EJS).

Consistent with Canada's effort to decrease the use of custody for youth, diversion has been emphasized as a way to minimize the negative impacts associated with involvement in the justice system which has often been reported as a risk factor for recidivism (Osgoode & Weichselbaum, 1984; Robinson & Crow, 2009). Research evidence of the impact that the youth justice system can have on a young person supports the use of diversion in order to minimize the potential for labelling. Similarly, based on existing international diversion programs, it was projected that such programs in Canada should be successful in reducing youth crime (Roberts, 2003).

For example, Osgood and Weichselbaum (1984) conducted a study in which they explore the views of service providers and clients from 9 agencies associated with diversion programs on the ability of these programs to meet their goals of reducing stigma, coercion, and social control. The study reported that these diversion programs had a great deal of promise in achieving their goals if they are used as an alternative to the justice system and not as an added component. They concluded that the service providers and clients' views were significantly different in terms of their views on youth who offend. It was suggested that the service providers held the general assumption that most youth are law abiding citizens and the youth sent to their programs were the exception. However the youth reported that their behaviour was not unusual or out of the ordinary, which would represent the opposite of the service provider's assumption. Osgood and Weichselbaum (1984) suggest that this outcome may have a significant impact on the relevance of labelling theory and the resilience of the self-identity of youth involved in the justice system.

A second study conducted by Landau (2004) provided an analysis of two post-charge criminal court diversion projects that revealed high levels of support and high 'success' rates. Landau (2004) interviewed Crown prosecutors, defence counsel, representatives from six community agencies and diversion clients from Provincial and Federal diversion programs. This study reported that 94 percent of the provincial sample and 91 percent of the federal sample successfully completed their diversion sanctions. Benefits from these programs identified in the results included: saving significant time and resources for the community *and* the individual; perceived deterrent aspects; the opportunity to have a second chance; improved relationships with the community; and the escape of criminal prosecution (Landau, 2004).

These two studies presented promising results in terms of diversion programs in Canada; however they were primarily focused on adult programs. In contrast, Maclure, Campbell and Dufresne (2003) conducted a phenomenological inquiry into the experiences, observations and criticisms of stakeholders involved in the process of youth diversion in Ontario. They carried out semi-structured interviews with 17 professionals who were very familiar with the diversion process and included the following: police officers; lawyers; probation officers; senior ministerial bureaucrats; officials who administer pre-charge diversion programs; and the community workers. Maclure, Campbell and Dufresne (2003) suggest that the results of this inquiry indicate that young offender diversion in Ontario is susceptible to several tensions that may evolve within a "two-tiered process" (p.148). The first tier consists of pre-charge diversions, which appear to be used more often for first-time minor offenders, and the second tier consists of post-charge diversions which may become more often used for repeat young offenders. Based on these results, this study suggests that the introduction of the *YCJA* may actually emphasize the existing tensions between the two tiers and this could result in some

arbitrary use of diversion which may increase the risk for undermining the rights of the young person (Maclure, Campbell, Dufresne, 2003).

As a result of the changes to the legislation and the research that discusses the need for community-based responses to youth crime, there has been an increase in diversion for youth in Canada through the use of Extrajudicial Measures and Extrajudicial Sanctions (Bala, 2007). However, absent from our understanding of diversion is the perspective of young person. It is important to explore how diversionary methods of responding to youth offending are being experienced by the youth themselves because they are the ones whose behaviour these methods are intended to address. Additionally, they are the only source that can provide a better understanding of the impact that diversion may (or may not) have on a young person's life, and how that impact corresponds with the key principles outlined within the *YCJA*.

### ***The Youth Perspective***

The focus and inclusion of young person's voices is an issue that has been deemed important within section 12 of the *United Nations Convention on the Rights of the Child* (UNCRC), in which it stated that:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through

a representative or an appropriate body, in a manner consistent with the procedural rules of national law (*UNCRC*, 1989).

In support of this section within the *UNCRC*, researchers are finding it increasingly important to include children's perspectives within research (Peterson-Badali, Ruck & Koegl, 2001) and are seeing children and youth, more often, as reliable informants of their own experiences (Danby & Farrell, 2004). Therefore, it is crucial that young people be included within research in order to understand more thoroughly how extrajudicial sanction programs are being experienced by participating youth.

Although limited, there is some literature that explores the experiences and perceptions of youth within the justice system. However the examination of this population is not specific to definitions and key dimensions of the *YCJA*. For example, Umbreit, Vos & Coates (2006) investigated the effect that restorative justice programming has on offender and victim perceptions of fairness, diversion and recidivism (among others) within various restorative justice dialogues including victim-offender mediation, conferencing circles, and "other". By utilizing first-hand accounts of the youth experiences, Umbreit, Vos & Coates (2006) found that the majority of the participants felt that their involvement in restorative justice practices was fair and that these youth were more likely to report being treated fairly compared to those going through traditional court proceedings. Although this study provides some analysis of participant perceptions and understanding of their experiences, there was a significant emphasis placed on the role of the victim as opposed to the role of the offender.

Similarly, Lochner (2007) explored youth perceptions of Canada's criminal justice system in a study that examined youth beliefs and probabilities of arrest and how that affected initial offending behaviours. The findings indicate that while participants' beliefs

on the likelihood of arrest were generally unaffected by external influences, they were primarily affected by personal involvement with the justice system and/or sibling involvement. Although this study is useful in terms of prevention, it does not examine how young people perceive or understand their experiences once they are in contact with the justice system. As such, in the present study it was important to engage in an in-depth analysis of how youth individually make sense of their involvement in diversion and how that corresponds with the key principles of the legislation.

There is a considerable amount of research that has been conducted on youth justice in Canada. However there are still a number of gaps. One of the key components of this study is the inclusion of the youth perspective, which has historically been excluded from research despite the emphasis placed on the inclusion of young person's voice under the *UNCRC*. Given the importance of including the youth perspective within research and the increased use of diversion under the *YCJA*, it is important to understand how youth think about and experience diversion within the context of the goals promoted under the Act.

### ***Key Principles***

The *YCJA* is built on a framework of responding to youth crime and not necessarily preventing it or solving it as a primary goal. In particular the *YCJA* is distinct from previous legislation as it aims to respond to youth crime by focusing on the current offence, and when relevant (particularly when there is a pattern of past offending), looks at the underlying causes of criminal behaviour and the individual circumstances of the young person. In this way, there are some key principles highlighted within Section 3 of the *YCJA*, and which serve as the driving

force of this research project. These principles are: meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration. It has been argued that the *YCJA* appears to have accomplished its goal of decreasing the use of youth courts and custody for young persons in conflict with the law (Barnhorst, 2004). Although this might suggest that the *YCJA* has been successfully implemented, it is equally important to explore how the emphasis on these key principles may impact the youth that this legislation is intended for. In order to do this we must first explore how these principles are understood and explained within the literature.

### ***Meaningful Consequences***

A number of sections within the *YCJA* address meaningful consequences for youth in conflict with the law. In particular, as previously stated, the Declaration of Principle states the one objective of the youth justice system is to “ensure that a young person is subject to *meaningful consequences* for his or her offence” (S.3(1)(a)(iii)). Additionally within this section it is stated that “...the measure taken against young persons who commit offences should...(iii) be meaningful for the individual young person given his or her needs and level of development...” (S.3(c)). Furthermore, the concept ‘meaningful consequence’ is used in reference to sentencing. Under section 38(1) it is stated that the purpose of sentencing is to “hold a young person accountable for an offence through the imposition of just sanctions that have meaningful consequences for the young person...”. Given that the concept of meaningful consequences appears within a number of defining sections within the *YCJA*, it is evident that it is an important component in the way this legislation is supposed to address youth offending.

Given this emphasis, it is important to assess whether or not, in practice, the legislation is effective in achieving this goal from the perspective of the young person. However, one problem with the objective of having a meaningful consequence is that there is no clear explanation of the concept. Roberts (2003) argues that the phrase ‘meaningful consequences’ is rather ambiguous and he observes that, as a result of this ambiguity, judges may interpret the phrase in significantly different ways. He suggests that some judges may be inclined to use this dimension as a justification for imposing more severe sentences and, as a result, it may become “deterrence in disguise” (Roberts, 2003, p.420). The lack of information about this objective of the *YCJA* raises certain questions: What does it mean for a consequence to be meaningful? Is it connected to the offence? A youth’s past offending, or lessons learned, or his/her personal life? What factors are associated with a meaningful consequence? Are these factors different for each young person? How does one know whether or not a consequence is meaningful to an individual? How is a meaningful consequence meaningful within the context of diversionary responses to youth crime and the principles associated with that such as proportionate accountability?

The vagueness of the phrase meaningful consequence may lead to many interpretations. While the effectiveness of a ‘(meaningful) consequence’ is often equated with future non-offending behaviours, a reduction in the frequency and severity of offending might also be considered success. Alternatively, what is meaningful to a young person may not be similarly meaningful to a Crown or judge. However the *YCJA* is built on the premise that it is important to address current offending behaviour through a response that is meaningful to the young person and not necessarily to reduce future re-offending as the primary goal (Barnhorst 2004). Given the ambiguity of the concept, it is critical to examine how youth involved in the system understand it. Furthermore, this may

provide support for justice professionals to ensure that the responses youth are receiving are meaningful.

### ***Fair and Proportionate Accountability***

It is stated within the Act that one of the basic principles of the *YCJA* is to emphasize “fair and proportionate accountability that is consistent with the greater dependency of young persons and their reduced level of maturity” (S.3(b)(ii)). Furthermore Section 3(c) of the Act outlines key objectives of measures taken against youth in conflict with the law. These objectives are prefaced by the statement that they should be achieved “within the limits of fair and proportionate accountability”.

It has been suggested that youth in conflict with the law can be held accountable on two levels: institutional and individual (Ward and Kupchik (2009)). On the institutional level, accountability is associated with “legitimacy of authority, procedure and standards, and decisive action in the event of their violation or failure” (p.86). On an individual level, accountability is much more associated with an impact on the person and their awareness of their behaviour and the “personal responsibility” associated with that (p.86). The question, then, is which level of accountability is the *YCJA* referring to? Is it one or the other, or a combination of them both? It is unclear what it looks like for a young person to be held accountable. It could be interpreted as any or more of the following: youth taking responsibility for their actions, admitting guilt, completing the requirements of the measure they receive, or learning a lesson about their behaviour. Or perhaps showing remorse is more associated with accountability. Similar to the argument made by Ward and Kupchik (2009), it is evident that there is the possibility for different interpretations of accountability. Therefore it is important to explore how this concept



is interpreted by young people involved with the youth justice system and how they make sense of these concepts within the context of their own lives.

The legislation emphasizes that it is not only important for youth to be held accountable, but that they should be held accountable in a proportionate way. The principle of proportionality stems from Von Hirsch's theory of Just Deserts. According to Von Hirsch (1992) "...the principle of proportionality is said to be a requirement of fairness" and based on this sentences issued within a justice system that values proportionality should be consistent with a principle of just deserts (p. 68). A 'just deserts' model is based on the philosophy that combining principles of justice and fairness is the best way of responding to persons who have committed offending behaviours (Sloan III & Miller, 1990). This model of justice does not consider deterrence as a guiding principle in the decision making process. Instead it uses "moral grounds" to impose punishment on those guilty of committing an offence because that is what they are believed to *deserve* (Sloan III & Miller, 1990, p. 21; Von Hirsch, 1976). More specifically, this theory proposes that a person who is guilty of an offence deserves to be punished for his/her actions and the pain inflicted as a result of that punishment symbolized the moral condemnation of that person. This notion of blameworthiness determines the severity of the punishment. The offender shall receive a specific degree of punishment which is proportionate to the offence that was committed.

It is important to note, however, that proportionality is a component of the *YCJA* that was not formally included within the previous legislation (the *YOA*). Sentences were being commonly imposed to accomplish deterrence, and as a result, a proportionality principle was introduced as a way to regulate the types and quantum of responses given to young people (Bala, Carrington & Roberts, 2009). One way this is evident under the *YCJA* is through the increased

emphasis on diversionary measures. Pratt (1986) argues that diversion is a more effective way of dealing with youth who commit less-serious, “minor” offences (Pratt, 1986). However there is a possibility that diversion may be used in a way that is disproportionate to the offence committed, and in fact may be more onerous than potential sentences issued in court (Barnhorst, 2004; Koffman & Dingwall, 2007). Therefore the potential for different interpretations of accountability and the potential for disproportionate use of diversion suggest a need to explore these concepts with the youth themselves as they are the ones experiencing these responses. Furthermore, it is important to explore the principle of fair and proportionate accountability from youth perspective in order to gauge their understanding of how it applies to their life.

### ***Rehabilitation and Reintegration***

It is emphasized under the *YCJA* that holding youth accountable for their actions specifically in a way that will rehabilitate and reintegrate them into society is the best way to contribute to the long term protection of the public (S.3). Similar to the previously mentioned principles, rehabilitation and reintegration can be found throughout the defining sections of the *YCJA*. In particular, The Declaration of Principle states that the youth justice system is intended to “rehabilitate young persons who commit offences and reintegrate them into society...” (S.3(a)(ii)). Additionally, it is stated that the youth justice system must be separate from that of adults and emphasize “rehabilitation and reintegration” (S.3(b)(i)). Section 3(c)(iii) of the act states that the “measures taken against young persons who commit offences should....(iii)....where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person’s rehabilitation and reintegration...”.

Rehabilitation and reintegration are consistent with a utilitarian framework of justice. As developed by Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873), utilitarianism is a philosophy where actions are considered to be ‘morally right’ if they “produce ‘the greatest happiness’ for the greatest number” (Robinson & Crow, 2009, p.9). Consequently, if rehabilitation can transform offenders into law abiding citizens (which would be considered an earlier, more *desirable* state), it would be, in essence, accomplishing a utilitarian goal.

When considering the rehabilitative ethic in relation to punishment, some theorists argue that the two are detached entirely. In fact, some theorists argue that rehabilitation is an “*antidote* to punishment or, more precisely, the potentially harmful effects of punishment” (Robinson & Crow, 2009, p.8). It may be argued that this view is evident within the *YCJA* because it places significant emphasis on rehabilitation through the use of diversion.

A basic definition of rehabilitation is directly connected with the concept of restoration which implies a return to a previous state (Robinson & Crow, 2009). When examining offending behaviour, the prefix “re” implies that a rehabilitative framework is associated with an offender’s return to a more desirable social standing. As suggested by Robinson and Crowe (2009), a common understanding of a rehabilitated person would indicate that there is a change in the way a person behaves. In other words, a successfully rehabilitated person might no longer have the propensity, desire, or necessity to offend. This concept would then support the emphasis placed by the *YCJA* on addressing the underlying circumstances that may impact a young person’s offending behaviour.

However, this may not be the case, in particular for those youth who are emerging into adulthood. These youth are most often still in a process of development and finding their place

within society (Arnett, 2000), which suggests that there may not be a previous, more “desirable” state, to which to return. Therefore some offenders, in particular those charged with minor offences, may not have experienced a “de-integration”, which would not merit the need for any kind of reintegration.

Based on the fact that rehabilitation and reintegration is given significant emphasis within the *YCJA* as a guiding principle for responding to youth offending, it is important to examine how this principle is understood by those it is directly intended to impact. Furthermore, in order to gain a better understanding of the need for rehabilitation and reintegration of youth participating in extrajudicial sanctions, research specifically exploring the youth perspective is required.

Meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration have been emphasized within the *YCJA* as fundamental principles intended to guide the way Canada’s youth justice system responds to youth offending. However, as demonstrated the description of these terms within the legislation is rather vague and open for interpretation from both youth justice professionals and the youth themselves. As such, it is important to first explore the ways in which these terms are interpreted and understood in order to then examine whether certain responses to offending, such as diversion, are accomplishing these goals. In addition, it is ultimately important to examine this from the perspective of the young person, as they are whom these principles are targeted towards. Sharing the experiences of these youth may fill a gap in the literature by providing a better understanding on how diversion is (or is not) accomplishing the goals of the *YCJA* and may provide areas of improvement for the youth justice system.

***Gaps in the Literature***

One year following the introduction of the *YCJA*, Barnhorst (2004) suggested that it was “...important in the following months and years ahead to monitor carefully how the Act is being implemented and to encourage ongoing discussion of how the lofty objectives of the *YCJA* can be realized in practice” (p.18). Despite the fact that the *YCJA* has been in use for over eight years, it is evident that a number of areas remain understudied. First, despite the increased use of diversionary measures, there is a general lack of knowledge on what ‘diversion’ actually looks like in Canada or how these practices are being carried out. Secondly, there is little to no emphasis placed on the actual lived experiences of the youth participating in diversion programs, including extrajudicial sanctions. Thirdly, with an increased emphasis on the key principles within the *YCJA* (meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration), there is no clear understanding of what they should entail or consist of in order to ensure optimal effectiveness. For these reasons the present study attempts to build upon the existing literature by exploring the key dimensions of youth justice in Canada through an in-depth analysis of youth experiences with Extrajudicial Sanctions.

## **Methodology**

Qualitative research methods have been gaining momentum and recognition within the social sciences and it is currently used in a number of research studies which explore issues pertaining to youth voices and youth justice (Peterson-Badali, Ruck & Koegl, 2001).

In order to acquire a more in-depth view of each person's unique experience for data collection, the researcher utilized qualitative, semi-structured interviews. This method allowed the researcher to tailor each interview to fit the participant by modifying the specific questions that were asked, while following a guideline in order to reach the key principles being explored and to ensure qualitative saturation. In particular, it left room for the researcher to discover concepts and ideas that were brought up by participants throughout the course of the interview. The flexibility of a semi-structured interview made it possible to gain a deeper understanding of the youth's experiences and perceptions of their involvement in an extrajudicial sanction. In addition, utilizing qualitative methods gave the youth an opportunity to express their opinions, experiences and provided a glimpse into the ways in which extrajudicial sanctions are understood and experienced from the perspective of those participating in them.

### ***Setting***

Participants were recruited from a courthouse in the Greater Toronto Area (GTA). This location was chosen because a large number of youth are processed here and provided a diverse population from which to draw participants. The courthouse manager granted permission for the data collection to take place within the courthouse and for the researcher to approach youth outside of the courtroom. All of the face-to-face interviews (Phase I and Phase II) were conducted in a semi-private space within the courthouse.

***Recruitment***

In order to recruit participants, the researcher observed the proceedings of youth court cases during which some youth were informed of an offer to enter into an extrajudicial sanction. Once the youth were notified that they were being offered an EJS, they were immediately directed to speak with the duty counsel office (or consult with their counsel in the rare case where a young person might have legal representation) in order to be informed of their options and to obtain a more in-depth description of what an EJS involves. Following this consultation, the young person would re-enter the courtroom and inform the court officials of their decision (on occasion they would request a remand date if they needed more time to think about their options). If the youth had rejected the offer, they would be remanded to a further date in order for the case to be assessed and counsel to be obtained. If the youth accepted the offer they would be given a remand date of approximately three to four months in order to complete the requirements of their EJS. At that time the youth would be directed to the Probation Office where they were to meet with a probation officer to discuss the requirements of their sanction.

Upon leaving the courtroom, the researcher approached the young person who had accepted an EJS and informed them of the present study. The researcher followed a script which outlined the key components of the study and informed the young person what his/her participation would consist of should they agree to participate (Appendix A). It should be noted that if the youth presented any indication that they were not interested, then the researcher ended the conversation and thanked the young person for his or her consideration. However, after hearing the details of the study, any youth who consented to participate was then given time to proceed to the Probation Office to meet with the probation officer, after which the interview

would take place. During this time the researcher would wait outside of the Probation Office or in the main hall for the young person.

### ***Characteristics of Participants***

Participants consisted of a convenience sample of 20 youth who were offered and accepted an extrajudicial sanction. All participants were between the ages of 12-17 with a mean age of 15.35. *Table 1* displays the breakdown of participants by age. In total, 9 males (45%) and 11 females (55%) were included in the study. Only youth who had admitted responsibility for the offence (as part of the extrajudicial sanction provisions under section 10(2)(e) of the *YCJA*), and had accepted an offer from the Crown to enter into the extrajudicial sanction were eligible to participate.



*Table 1: Participants by Age*

<b>Age</b>	<b>N=20</b>
<b>12</b>	1 (5%)
<b>13</b>	0 (0%)
<b>14</b>	5 (25%)
<b>15</b>	4 (20%)
<b>16</b>	5 (25%)
<b>17</b>	5 (25%)
<b>Mean Age</b>	15.3

Twenty participants were adequate to provide an in-depth understanding of the lived experiences of the sample, and qualitative saturation was reached after 12 interviews (Guest, Bunce and Johnson (2006). In addition, the population of interest for this research is one that is known to be difficult to obtain, therefore, for the purpose of this study a sample size of 20 was manageable and satisfactory.

### ***Procedure***

After receiving verbal confirmation that the young person was interested in participating (and following their meeting with the probation officer), the researcher also obtained written consent from them. In accordance with the Ethics Approval, which was obtained by the Brock University Research Ethics Board (see Appendix B) all participants were required to provide written consent in order to participate. Participants also received a Letter of Invitation (Appendix C) at this time which described the details of the study, including the risks and

benefits for the young person. After receiving this letter, the researcher verbally described the specific requirements of the young person's involvement in the study and went through each component of the consent forms (with the youth and their parent or guardian) and answered any questions that were raised.

Youth who were between the ages of 16 and 17 were able to provide Informed Consent (Appendix D) for themselves. Under the law youth ages 16 and 17 are considered to be more responsible than youth 12 to 15, and as a result are seen as competent to provide their own informed consent to participate in the research process. Youth between the ages of 12 and 15 were required to sign an Assent Form (Appendix E) and their parent or guardian was required to sign an Informed Parental Consent Form (Appendix F) to authorize the participation of the young person. In addition, all participants were given the option to have their parent or guardian present for the interview.

A space was provided on the consent forms for the young person and/or their parent or guardian to provide contact information to receive a copy of the results upon completion of the research. The researcher made it clear that the participant was able to refuse participation at any time throughout the interview. This would include choosing not to answer any question or withdrawing their participation entirely. In addition, it was explained to all participants that this study is entirely separate from their case and that information disclosed during the interviews were for the primary purpose of this thesis. However it was made clear to each participant that the researcher would only be asking questions regarding the young person's *experiences* with the justice system and not any specific details about past or present criminal charges. Similarly, it was clarified that any disclosure of harm to themselves or others would have to be reported to the police.

Once consent was obtained from the required parties, the face-to-face semi-structured interviews were conducted. It is important to note that the informed consent process took place both during Phase I and Phase II of the study, which will be described below (See Appendices G - J for the Phase II consent information). Additionally, the youth was notified during Phase I of the multi-phase nature of the project and they were encouraged to participate in the follow-up interview (Phase II).

### *Phase I*

After receiving verbal and written consent, the researcher was able to conduct the face-to-face semi-structure interview with the young person. To begin, participants were asked to describe the requirements of the EJS as were determined during their meeting with the probation officer. However in the event that the young person lived in a different jurisdiction, the probation officer would refer him/her to another office closer to home. In this case, the meeting that took place with probation at the courthouse would provide the young person with some possibilities for his/her EJS, but the specific requirements were not determined until the individual met with the referred probation officer. In the event of this process, the researcher would phrase the questions regarding the requirements of the EJS in a hypothetical format. The interviews would consist of hypothetical situations for the young person, depending on the options the probation officer had laid out.

At this time, the researcher asked all of the participants questions surrounding their expectations of the program and any concerns or feelings towards what their experience might be like. These questions were outlined in an interview guide (Appendix K). Following the initial discussion around the EJS requirements, the researcher proceeded to explore the key principles

of the study with the young person: meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration.

In addition to this, participants were also asked to describe their experiences thus far with the justice system and how that has (or has not) impacted their lives. Before completing the Phase I interview, the researcher asked the young person to confirm his/her remand date (the date they were required to return to court with proof that they had completed the program) in order to schedule the follow up (Phase II) interview.

Given the reported difficulty in obtaining participants from this specific population, an incentive was provided after each phase. Following the completion of the Phase I interview, each participant's name was placed in a draw. The winner of the draw was given a \$100 gift card to Best Buy.

### *Phase II*

In order to conduct the Phase II, follow-up interview with the young person, the researcher attended court according to the remand date provided during Phase I. At this time the Crown would indicate whether the young person had completed the requirements of his/her EJS. If the young person successfully completed the EJS, then the Crown would request that the charges be withdrawn, the Justice of the Peace would withdraw them, and the young person was free to go. In the case where the young person had not completed his/her requirements, s/he were most often given an additional remand date which was usually suggested by the Probation Officer, in order to give the individual time to meet the conditions of their EJS. If the participant was given a remand date, the researcher met the young person outside of the courtroom and confirmed that the individual would return on that date in order to conduct the follow up interview.

For the youth who had their charges withdrawn, the researcher met them outside of the courtroom in order to conduct the follow-up interview. The researcher reiterated the purpose of the study and reminded the young person what was discussed during phase one. At this time the researcher obtained informed consent from the young person (and their parent or guardian where necessary). The informed consent process was the same as Phase I and the researcher explained all the same risks and benefits, and in detail explained the participant's role during the interview.

Consistent with Phase I, the researcher followed an interview guide (Appendix L) which outlined the same key principles. However, during this phase, the questions surrounded the youth's experiences in the program as opposed to their expectations. For those youth who did not know what the requirements were for their EJS during Phase I, they were able to discuss much more specifically during Phase II. The youth were asked questions which required them to reflect on their involvement with extrajudicial sanctions and their understanding of key terms and principles present within the *YCJA*.

Similar to Phase I, an incentive was provided for all those who participated in Phase II of the study (which was in addition to their incentive for Phase I). Following all Phase II interviews, each participant received a \$10 honorarium for their participation.

As previously stated all of the interviews were semi-structured which enabled the researcher to explore the concepts in a way that encouraged probing for deeper descriptions and allowed for natural evolution of the interview.

## **Data Analysis**

In order to examine the youth's internalization and understanding of the principles outlined within the *YCJA*, the researcher allowed the themes to emerge from the data.

Therefore, in order to analyze the data from the semi-structured interviews, grounded theory procedures were employed.

Even though traditional grounded theory is aimed at discovering theory from data (Glaser & Strauss, 1967), this study aimed to discover themes through the utilization of grounded theory procedures, which is becoming more prevalent in current qualitative research (e.g., Clarke & Griffin, 2008; Matheson & McCollum, 2008). For example, Clarke and Griffin (2008) conducted a study on chronic conditions and body image later in life. Utilizing symbolic interactionism as the guiding framework of their project, Clarke and Griffing (2008) demonstrated the use of grounded theory procedures by generating a book of codes and subcodes from their interviews. Following this, they went back and analyzed the data based on the themes they had identified. The analysis consisted of a discovery of patterns and areas of disjuncture within the data in order to assess progression of overall patterns (Clarke & Griffin, 2008).

This study employed grounded theory coding procedures. In particular, the researcher employed a two-staged process consisting of open and axial coding (Corbin & Strauss, 1990). This method of analysis was used to identify themes and categories that emerged from the interviews by comparing and contrasting the similarities and differences between each interview. This method required that the data analysis occurred throughout the entire process of the data collection as each interview built on the next (Corbin & Strauss, 1990).

While the identification of more specific themes and subcategories enabled the researcher to explore the individual experiences of the young person, by also identifying broader categories, the researcher was able to examine what experiences were common among all of the participants

and therefore make suggestions for future research. In particular, within the present study, the researcher was able to examine the existence of the three key principles based on the young person's subjective experiences and how their understandings of those principles were constructed. The researcher then was able to go back and re-assess the Phase II data based on each youth's prior definition of these principles and examine the youth's experiences within their specific extrajudicial sanction and within the context of their definitions obtained during Phase I. It should be emphasized that the goal of the researcher was not to evaluate the success of the programs. This study was aimed at exploring the overall experiences of youth in relation to the goals of the legislation. Given the dual-phase design of this study, the researcher was able to identify the youth's understanding of the key principles within phase I and was able to utilize and formulate interview questions around each youth's own experiences during phase II.

## Findings

This section presents the findings of the study by noting the similarities that emerged among participant responses while also making note of the exceptions. First, the chapter begins by providing results of the overall experience of youth. Second, youth responses are explored thematically by *YCJA* principle. Some themes emerged multiple times throughout the study and are explored in relation to more than one principle.

### *Extrajudicial Sanctions for Participants*

*Table 2* summarizes participant's charges for the total sample of 20 across Phase I, and the EJS requirements for the 13 youth who also participated in the follow-up interviews during Phase II. The EJS requirements for those participants who did not participate in Phase II were not obtained and are therefore represented as N/A in the table below.



*Table 2 – Summary of Participant Charges and EJS Requirements*

<i><b>Participant</b></i>	<i><b>Charge(s)</b></i>	<i><b>EJS Requirement(s)</b></i>
1.	Theft Under \$5000	Shoplifting Prevention Program
2.	Graffiti	Community Service (20hrs) and \$50 donation to a charity
3.	Theft Under \$5000	Shoplifting Prevention Program and Youth Now on Track (weekly one-on-one with a Pastor)
4.	Theft Under \$5000	Shoplifting Prevention Program, newspaper article assignment, apology letter, poster, and an essay
5.	Robbery and Assault against a Police Officer	N/A
6.	Robbery	N/A
7.	Theft Under \$5000	Essay and Counselling
8.	Theft Under \$5000	Shoplifting Prevention Program and an essay
9.	Theft Under \$5000	Shoplifting Prevention Program
10.	Theft Under \$5000	Shoplifting Prevention Program, newspaper article assignment, essay, apology letter
11.	Attempt Theft and Assault	Two essays and attend a program on bad situations
12.	Theft Under \$5000	Apology letter, 2 essays, and attend a workshop on victimization
13.	Robbery and Forcible Confinement	N/A
14.	Theft Under \$5000 and Possession of Property	Victim impact classes, community service (10hrs) and an apology letter
15.	Assault and Mischief	N/A
16.	Assault and Death Threat	N/A
17.	Assault and Harassment	N/A
18.	Assault and Harassment	N/A
19.	Assault and Harassment	Counselling and mediation
20.	Assault and Harassment	Counselling and mediation

As shown in Table 2, the majority of youth were charged with theft under \$5000 (45%), followed by assault combined with another charge (40%). Many of the EJS requirements were consistent across offence type, with similar components between the participants who were charged with similar offences. For example, almost all participants who were charged with Theft

Under \$5000 were required to attend a Shoplifting Prevention Program. However there were also cases in which additional components were attached to the EJS that were not identical across youth cases. For example, some youth were required to complete a poster, or a newspaper assignment, or write an apology letter; and only participant 3 was required to participate in a youth program called “Youth on Track”. This variation is possibly related to differences in criminal justice administration – different Crowns, probation officers – and tailoring the EJS to the circumstances and needs of the young person.

The table also illustrates that most of the EJS requirements that the youth were required to complete were related, in some way, to the offence they had been charged with. For example, the youth charged with a theft were required to attend the Shoplifting Prevention Program, or youth were required to attend counselling for an assault where the youth could discuss the situation that occurred. Similarly, there was one participant who was charged with graffiti and was required to complete 20 hours of community service and pay \$50 to a charity of his choice. It is likely that paying back the community through work and a donation to a charity was viewed as directly addressing harm caused to the community through the graffiti.

In terms of overall experience in the program, there was an overwhelming consensus that, in comparing responses from Phase I and Phase II, the youths’ experiences were different than what they anticipated. Specifically, during Phase II, 85% of the participants (N=11) reported that their experience was better than they expected it to be. One participant who was required to attend the Shoplifting Prevention Workshop reported that she anticipated the program to be intimidating and that she would be judged for her behaviour. However her experience was not at all what she expected:

I liked it and didn’t because I didn’t want to be wasting my time there, but like I met a lot of new people, and um.....and I figured out that, they were in there for the

exact same thing that I was in there for.... And I thought I was going to be embarrassed about like what I took.... I was expecting it to be like, tough, like for the instructors to be like mean and stuff (P.1).

### ***Meaningful Consequences***

The first major principle that was explored during the interviews was meaningful consequences. As stated in Section 3 of the *YCJA*, The Declaration of Principle, the youth justice system is intended to “ensure that a young person is subject to meaningful consequences for his or her offences” (S.3(1)(a)(iii), and that “...measures taken against young persons who commit offences should...be meaningful for the individual young person given his or her needs and level of development...” (S.3(c)(iii)). In order to gain an in-depth understanding of how youth perceived a meaningful consequence, it was important to investigate, in Phase I, how they understood concepts of “meaning” and “meaningful”. Once this was established, the youth were asked to describe their understanding of a meaningful consequence and then whether they anticipated their experience with EJS to be a meaningful consequence. During Phase II the participants were asked to review their descriptions and report whether their experience was meaningful to them and if, in fact, they would consider the EJS to have been a meaningful consequence. From these questions two main themes that emerged were: important relationships and learning something from your experience.

First, *Table 3* demonstrates a comparison of the distribution of youth who reported that their experience provided them with a meaningful consequence compared to their Phase I predictions.

*Table 3 – Prediction vs. Reports of Meaningful Consequences*

	<b>Phase I</b> <b>(N=20)</b>	<b>Phase II</b> <b>(N=13)</b>
<b>Meaningful</b>	65%	62%
<b>Not Meaningful</b>	35%	38%
<b>Total</b>	100%	100%

The table shows that there is little variation between youth's initial prediction that their EJS would be meaningful compared to after they completed the program. In both phases of the interviews, almost two-thirds of the youth thought that the EJS would be/was meaningful. However more than one-third (35%) of the sample responded that their EJS would not be meaningful, and after their experience this proportion increased slightly (38%). Deeper explanations for these results are provided by youth in the sections below.

#### *Meaning as Communicated Through Important Relationships*

Participants were asked about how they understand meaning in their own lives by describing the things that are meaningful to them. The first major theme that emerged from the data was the presence of important relationships in youth constructions of meaning. The most common response to this question was that for something to be meaningful to them it has to be "important".

Given that this description was still rather general, when asked to clarify in more detail most youth could not put into other words what “meaning” or “important” entailed. Instead, they were more inclined to provide examples of things in their lives they found meaningful or important. The data indicated that, for all respondents, family relationships were the most important factor in every participant’s life. For example, Participant 8 reported that her mother was the most meaningful person in her life for the following reason: “because she’s always there for me...she tells me what I do wrong...like she keeps me—tries to keep me on the right track”. Similarly, Participant 11 reported that his mother was meaningful to him because “she gives me food....she provides clothes for me...she takes care of me”.

In accordance with the importance of the family, during Phase I every participant reported that a criminal justice consequence that impacted their family would be meaningful to them. However, during Phase II only two participants stated that their families were impacted by the EJS. For example, Participant 2 reported that as a result of the EJS, his father has taken a greater interest in his life and the hobbies that are meaningful to him. By doing so, it has improved their relationship and has had a positive impact on his life, which he reported as being the most meaningful. Similarly, during Phase II, Participant 3 reported that improving the communication between her parents and herself was very meaningful to her. In particular, she indicated that having them attend counselling sessions with her, repaired the pathway for communication between them, which she felt improved the relationship they have with one another on a deeper level. It is important to note that these two examples were the only participants who reported any family involvement in the process of completing their EJS.

### ***What Makes a Consequence Meaningful?***

The youth indicated that their construction of what a meaningful consequence looks like is primarily based on the following two themes: the ability to learn something from their experience, and the time commitment required to attend court and complete their EJS.

#### *Learning From the Experience of an Extrajudicial Sanction*

The notion of learning a lesson from your experience was often associated with whether a consequence would be deemed meaningful. For example, During Phase I participant 17 predicted that her experience would be meaningful because it would teach her “not to get involved with [her] friend’s problems” (Participant 17).

As reported by the youth during Phase II, learning a lesson from your experience was specific to the type of requirement that youth were required to complete. For example, the majority of youth who were required to complete the Shoplifting Prevention Program reported that they did not learn anything new, or if they did, it was general knowledge on the impact of stealing which they did not consider to be meaningful. However, participating in counselling was reported as being particularly meaningful for the youth because it taught them lessons that related to their own lives. For example, one participant who completed counselling sessions reported that he learned how to better handle himself in situations of conflict. “...it teach me how to handle my anger and behave better in that kind of thing” (Participant 19). Similarly, Participant 9 discussed how her experience taught her what the impact of having a criminal record would be on her life:

A criminal record could affect your life um, it affects your freedom because you can’t leave the country if you have a criminal record, um...also being labelled as this bad person because what you have or what you have done for the mistakes you’ve made...like you know just also people treating you

differently and just not getting the same—the respect you would normally get because of the consequences of what you did.

Furthermore, the *type* of lesson that was learned impacted whether youth considered a consequence to be meaningful. The interviews revealed that youth identified their experience as meaningful if they learned something on a more personal level, as opposed to only in relation to the offending behaviour. In fact, some participants reported that the lessons they were taught were associated more with life skills than lessons about behaviours that are wrong. For example, when asked how the counselling had impacted her, Participant 7 reported that it taught her “respect, and how to treat people and like how to influence my actions, like how my mind works”. She felt that these skills would help her in the future, which was reflected by her interest in continuing to attend counselling beyond the completion of her EJS. Similarly, Participant 20 noted that participating in counselling was beneficial for her because the counsellor was able to connect her with job skills and teach her the ways to obtain employment, such as attending job fairs.

### *Time Commitment*

In addition to the way meaningful consequences were constructed by youth through the positive outcomes of participating in an EJS (such as learning a lesson or having a positive impact on personal relationships), some participants also reported that their understanding of a meaningful consequence was constructed through negative experiences. In particular, it became evident that the way some youth constructed their understanding of a meaningful consequence – primarily negative meaning – was impacted by the process of coming to court and the time

commitment required to complete the EJS. The overall process and experience seemed to be at the core of how these youth perceive consequences that are meaningful.

When youth were asked to describe a meaningful consequence, some youth reported that they would consider the process of coming to court a meaningful consequence already because of the time spent away from other areas of their life that they deemed important. In particular, Participant 10 stated:

yeah it [coming to court ] has [been meaningful] because I've had to take out time of my day and wake up earlier in the morning than you know...like I'd rather be at school you know, actually doing something with my life than just sitting in a court room.

The process was a meaningful consequence to her because it took time away from the other things in her life she had identified as being meaningful such as family, school and friends. In fact, for this participant, the process of coming to court was more meaningful to her than the requirements of the EJS. She reported that coming to court was "...a waste of time. I'm missing school, like...I have a math test today that I missed, like...it's just a waste of time...I could be doing something else" (Participant 10).

When asked to describe his understanding of a meaningful consequence, Participant 19 gave the example of when he had his phone taken away. This was meaningful because he was unable to use his phone to keep in touch with his friends which he considered to be very important to him. Similarly, Participant 13 described the impact of the time commitment on his description of a meaningful consequence. "...yeah time commitment, I don't like my time getting wasted, like I don't want to go waste my time when I could be doing other things right....I would say that the most time consuming this is what I would say would go at the top...the most meaningful".



### *Fair and Proportionate Accountability*

The second principle that was explored within the interviews was fair and proportionate accountability. This principle appears multiple times throughout the legislation and is intended to ensure that responses to youth offending make youth accountable but are also proportionate to the seriousness of the offence. More specifically, under Section 3(b)(ii) of the *YCJA*, it is made clear that one of the basic principles of Canada's youth justice system is to ensure "fair and proportionate accountability that is consistent with the greater dependency of young persons and their reduced level of maturity".

### *Accountability*

In Phase I, participants were asked to describe their understanding of accountability. It was evident that youth associated accountability with "taking responsibility for your actions". Every youth reported this as the definition for being held accountable. However, similar to the descriptions of a meaningful consequence, this definition was rather vague. Through further probing, it became apparent that the concept of being held accountable was highly associated with the process of getting caught and coming to court and learning a lesson from your experience. These same themes are consistent with those that emerged around the principle of meaningful consequences. *Table 4* shows the proportion of participants who anticipated that they would be held accountable (Phase I), compared to how many youth reported that they were in fact held accountable after the completion of their EJS (Phase II).

*Table 4 – Phase I and Phase II Reports of Accountability*

	<b>Phase I</b>	<b>Phase II</b>
<b><i>Yes, Held Accountable</i></b>	80%	77%
<b><i>No, Not Held Accountable</i></b>	20%	23%
<b>Total</b>	100%	100%

*Table 4* demonstrates that 80% of youth believed that they would be held accountable through an EJS and this decreased only slightly after completion of the program.

Respondents were asked to describe their understanding of what it means to be held accountable through an EJS in Phase I, and based on their description, in Phase II they were asked whether or not the requirement(s) of the EJS held them accountable. The first theme that emerged around the principle of fair and proportionate accountability was the onerous nature of coming to court. While exploring the concept of accountability, a number of participants reported that they felt they were sufficiently held accountable by the very requirement of having to appear in court. The process of coming to court and having to appear in front of a Justice of the Peace (JP) in a courtroom full of people was onerous enough for some youth and they considered the requirement sufficient to hold them accountable. For example, Participant 8 stated

...yeah, even this process, I would never do it again...it's scary, to learn that oh this is the same courtroom that a killer would come into, it's like scary...like you don't know what to say, like you stand up front...it's just, they all just look you in your eye....it's not cool.

For this participant coming to court related to an emotional dimension – intimidation of key criminal justice players and a mythical aura about criminality and justice. Similarly, Participant 1 discussed the onerous nature of court by describing the time commitment that is required by the court and the way that impacted her experience and her perceptions of accountability:

before I didn't—I wasn't really thinking about the consequences, but now because it happened you know, and I experienced it....I've been here all day and everything...I don't want to go through this again...

Consistent with the principle of meaningful consequences, the interviews indicate that learning a lesson from your behaviour – communicated by the EJS program – was also highly associated with being held accountable. On the whole, participants reported that teaching youth about the risks and negative consequences of crime in order to make youth accountable for their actions, as part of an EJS, was not an effective strategy. It appears that accountability, as perceived by the individual youth, was dependent on the type of condition/component the youth was required to complete as part of his/her EJS.

For example a major focus of the Shoplifting Prevention Program, in which a large portion of the sample participated, was the lesson that stealing is wrong. This was a message that all youth reported they had been taught prior to engaging in the behaviour in the first place, but had not impacted their decision to commit a theft resulting in their charge(s). Many youth reported that the repetition of this lesson would not impact their future decisions of whether or not to steal. Similarly, writing an essay was one requirement that was continuously reported by the respondents as being an ineffective component of an EJS. The majority of participants who were required to write an essay as part of their EJS reported that they “just wrote it to get it done” (Participant 20). The youth reported that even if there was research that had to be

conducted in order to complete the essay, little time and effort was spent working on it and the youth reported that they did not learn much from the exercise.

It was evident that the *process* of appearing in court was an area of the overall experience that significantly impacted the young person's perspective of whether it held them accountable. For example, Participant 7 reported that the process of coming to court was something that taught her a lesson regarding offending in the future. She noted that the court experience of appearing in court is something she will think about having to go through if she is ever in a similar situation in the future where she may be presented with an opportunity to offend again.

Overall, the interviews indicate that youth reports of accountability were highly dependent on their experience of the process as a whole. In particular, their experience of having to appear in court (perhaps multiple times) and be addressed in front of a JP was often onerous enough for the youth to report having been held accountable. In addition, learning a lesson as a result of the process or the specific requirements of their EJS was also an indicator of whether or not the young person felt they were held accountable.

### *Proportionality*

Participant constructions of proportionality were primarily dependent on the perceived connection between the response and the offence. During Phase I, the concept of proportionality was explored by examining whether the respondent reported some connection between the components they were required to complete as a part of their EJS and the offence/harm caused by the offence for which they were charged. Overall, the majority of participants reported that their EJS was proportionate to their offence. For example, any participant that attended the Shoplifting Prevention Program reported that their experience was proportionate. This

component of the EJS is specifically designed to address the offending behaviour by educating the participants on the consequences of such an act.

Similarly, in addition to the Shoplifting Prevention Program, Participant 3, who was charged with Theft Under \$5000, was also assigned to complete a program called “Youth Now on Track” which required her to attend one-on-one counselling sessions with a Pastor. During the follow-up interview, when asked about the proportionality of her EJS, she reported that she felt the combination of both requirements were proportionate to her offence. “Um...yeah, it was more like a half and half thing, like the one taught you half of what you need to know....and the other half taught you the other stuff you need to know” (Participant 3). She believed her experiences with both components were unique and she reported that the combination of both was considered to be proportionate to the offence.

Considering that the majority of youth were required to complete multiple components within their EJS – according to the participants within this study – each component would have to be related to the offence in order to be considered proportionate. Based on the youth’s constructions of proportionality, certain requirements/components of an EJS were not proportionate responses for a number of different offences. In other words, specific responses, such as the newspaper assignments and essays that many youth were required to complete, were deemed, by the youth, as disproportionate if they were not related to the offence the youth had been charged with.

Within this sample, Theft Under \$5000 made up the greatest proportion of offences and all those who were required to attend the Shoplifting Prevention Program reported that it was a proportionate response. However, it was the additional components that the youth were required to complete that were deemed disproportionate. For example, during the Phase II interview, one

participant who was charged with Theft Under \$5000 stated “the article assignment, I didn’t really think it had anything to do with what was going on with my charges” (Participant 10). In addition to the newspaper article assignment, this participant was required to attend the Shoplifting Prevention Program, write an apology letter, and write an essay on how having a criminal record would affect her future. Of all the requirements, she reported that only the Shoplifting Prevention Program and the apology letter were proportionate because they were directly related to the offence with which she was charged.

Participant 2 provided another example of a response that was not deemed as proportionate. Having been charged with graffiti, Participant 2 was required to pay \$50 to a charity of his choice and complete 20 hours of community service. When asked whether or not he felt the donation was a proportionate response for the offence he was charged with, he responded by saying “no, because it has nothing to do with each other”. The donation, he felt, was in no way related to the act of graffiti. And at the suggestion of his EJS worker, this participant attended a music program for at-risk youth where he was invited to play the drums in a band, once a week for three hours which would be the basis of his community service. When asked if he felt that this type of community service was proportionate to the offence he stated “Definitely not...it wasn’t even a punishment really, like, playing the drums at a professional recording studio...it was a great experience” (Participant 2). Overall youth reports of accountability illustrate that having a strong connection between the offence and the response was critical in the extent to which they experienced this principle of the *YCJA*.

In addition to the relationship between the response and the offence, some participants also noted that the length of time required to complete their EJS played a role in the (dis)proportionality of their requirements. In fact, when asked to come up with their own EJS

that they could give to another young person who was charged with the same offence, 77% (N=10) of participants who completed Phase I reported that they would have imposed an EJS that was harsher (or at least appeared to be) than the one they received. In particular, many youth would have required the completion of the EJS be much shorter than the time they had received (even those who had received extensions). For example, one participant, who received three extensions (the program was completed after seven months as opposed to three to four), suggested that if he were to offer an EJS to another youth that it should be completed in one month (Participant 11). He reported that if the timelines of his EJS had been more strictly enforced, he believed he would have completed it on time. He agreed that having less flexibility in completing the EJS would require him to structure his time more, and therefore would lead him to learn more from his overall EJS experience.

Overall, the participants indicated that their understanding of proportionality was highly dependent on their perceived relationship between the components of their EJS and the offence they had been charged with. It became evident that certain components, such as the Shoplifting Prevention Program and counselling, were effective in establishing this relationship. However other components, such as the newspaper article assignment and the essays were reported as not having been proportionate, based on the youth's understanding of the principle.

### ***Rehabilitation and Reintegration***

Under the *YCJA*'s Declaration of Principle, it states that the youth justice system is intended to "rehabilitate young persons who commit offences and reintegrate them into society..." (S.3(a)(ii)). Additionally, the *YCJA* emphasizes the importance of understanding the underlying causes of youth offending behaviour. Specifically, Section 3(1)(a) states that "the

youth criminal justice system is intended to (i) prevent crime by addressing the circumstances underlying a young person's offending behaviour". Therefore in order to accomplish rehabilitation and reintegration one must understand the root cause of youth offending behaviours.

However the terms rehabilitation and reintegration also are not clearly defined within the *YCJA*. In fact, the pre-fix "re" would indicate that there is a return to a previous state. For example, there is an implication that the young person was once integrated within society, and at some point became 'dis-integrated' for which the process of completing an EJS should attempt to rectify. This understanding of these terms was not reflected in the interviews obtained within the present study.

The one clear rehabilitative component, from the perspective of youth, was counselling. During Phase II, the participants who were required to attend counselling as a requirement of their EJS reported that their experience was rehabilitative because it impacted their lives on a personal level. The counselling served a rehabilitative purpose because of the influence it had on youth constructions of themselves and their understanding of their behaviours. For example, Participant 7 reported that she was able to gain a better understanding of herself and the way her mind works. Counselling was reportedly the only EJS requirement that focused on the individual and their specific needs. Any other components that the participants were required to complete were aimed predominately at addressing the offending behaviour.

However, the bulk of the discussion within this section of the interviews focused on the reintegration of the offender into the community. The legislation refers to "society" and "community" but does not specify what this consists of. Therefore, in order to examine the way that youth understand rehabilitation and reintegration, during Phase I it was important for the



researcher to explore the young person's sense of connection with their community. Next the youth were asked to describe how their participation with the EJS might affect their role within their community.

The major theme that emerged while exploring the principle of rehabilitation and reintegration is that the youth within this study have a distinct sense of community. The interviews revealed that the youth's sense of community is not viewed based on location or broader geographical area, but rather on close relationships. For example, when asked whether or not they felt a connection with their community, one participant reported the following

I think for me honestly, like I don't, I feel like where I hang out and stuff, like I don't feel like I have to be accepted by everyone...as long as like when I go its—I have my friends that's basically all I need, as long as you're accepted by like your friends or certain, certain people then I think that's being accepted by your community right? Even though you know some people that may hang out in that area that don't necessarily live in that area, but it's just like as long as you have someone that you go and you're accepted by anyone. (Participant 15)

In order to further explore their definition, the researcher asked the youth to describe who they identified with, if not a broader sense of community, and whether or not those relationships would formulate a different sense of community for the young person. All participants reported that their constructions of community were based on family and friends compared to a more traditional understanding of the term which might be based on neighbourhood and location. For example, community is defined as “a group of people living in the same place or having particular characteristics in common; a group of people living together and practising common ownership; a particular area or place considered together with it's inhabitants...” (oxforddictionaries.com). Given these distinctions, the interviews proceeded by focusing on the “community” that the young person most identified with. For example, if the young person reported that he or she felt most connected with his or her family or his or her friends, the

questions were modified to reflect that. However, all types of community (family, friends and neighbourhood) were included when exploring what type of impact the youth EJS experience may have had on the young person's role within society.

During Phase II the participants were asked to describe how their involvement with the justice system and their EJS program may have impacted their relationships and their own roles within their community. They reported that there was no significant impact on their roles within the community they identified with (whether family or friends) or relationships with other members within their neighbourhood or geographically based society. The only two participants, who reported any impact on their "community" which was made up of family members, were the only ones that reported having their families involved in the process of completing their EJS. For example, Participant 3 whose parents attending the counselling sessions with her; and Participant 2 whose father drove him to and from community service. Both participants reported an improvement in the relationship with their family members.

Overall, the interviews suggested that the only EJS requirements that had any kind of a rehabilitative impact for the young person was counselling or the Youth On Track program (which was essentially a counselling initiative through one-on-one sessions with a Pastor). Furthermore, the participants expressed a specific understanding of community which was based primarily on the relationships with friends and family as opposed to a more geographical definition of the term. Based on this understanding of community, the majority of youth reported that there was no emphasis on reintegration and that their experience had no impact on their roles within these communities.

In conclusion, the major themes that emerged throughout the course of the interviews in relation to the three major principles guiding the *YCJA*, both in Phase I and

Phase II include: important relationships, lessons learned, the process of coming to court, and community based on close relationships. The following chapter will further explore these themes within the context of the literature and the impact they may have on extrajudicial sanctions in Ontario.

## Discussion

The implementation of the *YCJA* in 2003 represented a legislative shift in the way youth crime was dealt with in Canada. With an increased emphasis on diversion, this legislation was intended to both decrease the use of custody and to better address the underlying causes of youth offending (Maclure, Campbell & Dufresne, 2003). One feature of the new legislation was a significant emphasis on the use of diversion through the introduction of extrajudicial measures and extrajudicial sanctions. Diversion is structured by several guiding principles including: meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration.

The current study suggests that while these principles appear in multiple sections of the legislation, they remain ill defined. It has been suggested that the vague use of these terms may create the potential for inconsistent and arbitrary use of responses to youth offending (Roberts, 2003). Furthermore the vague use of these terms leaves them open to interpretation. A number of premises serve as a foundation for the current research. First, it is important to know how youth think about, interpret and experience these principles through their interactions with the justice system and their participation within extrajudicial sanctions. Different people construct different definitions and interpretations based on their experiences. Understanding youths' perspectives about extrajudicial sanctions within the context of the objectives of the *YCJA* is important given that it may be different than the way they are understood by adult actors within the criminal justice system. For example what a Crown thinks is a meaningful consequence to a young person being offered an extrajudicial sanction may not be meaningful at all, and therefore not meeting this principle of the *YCJA*.

Second, the youth perspective is also an area within the literature that has been historically excluded historically. Therefore the current study provides youth with the opportunity to speak and gives value and legitimacy to their voice. Given that they are the subject of a justice system created to respond to a specialized population, it is important to understand their views. Third, the study considers the youth experience as holistic – before and after the extrajudicial sanction program has been completed – revealing the ways in which youth make sense of their experiences with the overall *processes* associated with diversion, and their views about whether the EJS they consented to met the key principles of the *YCJA*.

More specifically the four questions which guided this research included: 1) What do meaningful consequences mean to youth receiving extrajudicial sanctions? 2) To what extent are youth who are receiving extrajudicial sanctions programs experiencing meaningful consequences? 3) Are youth who are completing extrajudicial sanction programs being held accountable in a fair and proportionate way from their perspective? 4) Are youth rehabilitated and reintegrated into the community in a way that is meaningful to them? This study explored the lived experiences of 20 different youth who received an extrajudicial sanction. This section will explore the findings of this research within the context of the literature and indicate some implications for practice and policy.

### ***Giving Meaning to Meaningful Consequences***

The youth in this study reported that what are most meaningful to them are the important relationships in their lives. In particular, the relationship with family members was reported as being the most meaningful to all of the participants. Many of the youth

went on to suggest that a criminal justice consequence that impacted their family would be considered meaningful to them. Specifically diversion was considered meaningful when there was an improvement in familial relationships as a result of the EJS. Second, youth reported that learning a lesson from their response was considered a meaningful consequence.

The findings reinforce the importance of the family to youth and its emphasis within the youth criminal justice system. The improvement of family relationships was reported as being an important part of a youth's 'meaningful consequence'. This suggests that it is important for an EJS to have a component that may focus on including the family in the process (as much as feasibly possible depending on the family situation) and an emphasis on *improving* family dynamics. Clearly when a young person is charged with an offence the family is impacted. It also suggests that it is important that police, as the gatekeepers of the system, inquire into the young person's life as much as possible and that this information is systematically forwarded for consideration by the Crown. Lastly this finding suggests that measures need to be created and supported by the province that explicitly involve the family.

Canada's current youth legislation includes the family in the process of responding to youth offending in numerous ways and is clearly something that is considered by police and Crowns (Olivo, Cotter & Bromwich, 2007). For example, Section 3(c)(iii), in the Declaration of Principles, states that "measures taken against young people should be meaningful for the young person and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration." Similarly, Section 3(d)(iv) declares that "parents should be informed of

measures or proceedings involving their children and encourages to support them in addressing their offending behaviour.” And in addition, it is stated under Section 5(c), Extrajudicial Measures, that “one of the objectives of extrajudicial measures is to include families and extended families (where possible) in the design and implementation of extrajudicial measures.”

However, based on the findings of this study it is evident that a significant emphasis on family involvement was not present. Only two participants reported any involvement from their parents. Increasing the involvement of the family is not likely going to be accomplished by assigning youth to complete individual, homework type components such as essay writing or newspaper assignments. Although these may serve an alternative purpose, such as making the young person think about their behaviour/accountability, it may not accomplish goals of improving the personal relationships that the youth reported as being significant within their definition of a meaningful consequence. Instead, the findings would suggest that it might be beneficial to focus more on components such as counselling that the young person can attend in the company of their parents or guardians or other supportive persons.

Combining the roles of the family and the state is something that is also supported within the literature by Maxwell, Kingi, Robertson, Morris and Cunningham (2004). In their report they suggest that combining these resources can positively impact the young person by utilizing family resources in the process of diversion and empowering the family to play a more active role in the response process. Set in New Zealand, Maxwell et al. (2004) specifically explore the use of conferencing as a form of diversion for youth and the key role the family should play in this process. It is argued that the emphasis on family

involvement can have a positive impact on the personal relationships within the family and potentially have a positive impact on the possibility of future offending behaviours. This is consistent with the findings presented within the present study. The positive youth reports of the importance of family relationships and the effect the programs had for those youth who reported improvements within their own families suggest that this is something worth further analysis.

The findings also indicate that many participants considered an EJS meaningful when they learned something from their experience. For example, Participant 7 discussed her experience in counselling and how it helped her to understand herself better and the way her mind works. This knowledge was obtained through the interactions between herself and her counsellor and will continue to impact her perspective on her own behaviours and interactions with others. Consistent with this example, participants reported that their experience was more meaningful to them if the lessons they learned had some relevance to their life outside of their EJS.

On the other hand, the youth suggested that the lessons that were specific to the offending behaviour, such as “shoplifting is wrong”, were rather redundant. It was the more personal lessons, beyond their offending behaviour, that held more meaning for these youth. Personal lessons, such as knowledge about oneself, were important to many youth. The link to personal reflection has also been explored within the literature around responses to youth offending. Morrow (2008) conducted a study that examined the offender reflective practice and how it could be used to improve the social skills for male offenders in prison. The findings of this study suggested that improvements to social skills



also impact the participant's attitudes and opinions which, in turn, may impact their behaviour and moral development.

As demonstrated by the literature and the findings of the present study, teaching lessons to youth in conflict with the law that are applicable to their lives on a more personal level, may have a significant impact on the self-perception of that young person and, in turn, may impact their risk of recidivism. This impact on the youth's sense of self impacts the way the young person understands the world and as a result, the decisions that are made and behaviours they choose to engage in (Burr, 1995).

However, the results of this study also indicate that the possibility for such a lesson to be taught was dependent on the type of component the youth was required to complete. For example, the individual homework-type assignments, such as newspaper articles and essays that many participants were required to complete, were reported as being ineffective and unnecessary. The majority of youth reported spending little time and effort on these components and did not learn anything from them. Although they may serve an alternate purpose in the eyes of the law, such as teaching youth about the impact of offending behaviours, in reference to meaningful consequences these components were not considered, by the youth, to be a meaningful consequence. Therefore it will be important for future research to take a closer look at the specific types of components that are available to youth as part of extrajudicial sanctions, and whether or not they are capable of providing youth with a meaningful consequence.

*Fair and Proportionate Accountability*

Consistent with the principle of meaningful consequences, the youth reported that their constructions of accountability were also highly dependent on the ability to learn a lesson from their experience. More specifically, it was the *type* of lesson that was associated with being held accountable. The participants indicated that the reiteration of the lesson that stealing is wrong did not hold them accountable because this was something they were already socialized to know. This suggests that there are certain components of extrajudicial sanctions that may not be capable of holding youth accountable, such as the Shoplifting Prevention Program, because the primary focus of this program, according to the youth, is to reinforce obvious norms about crime. Based on the youth's understanding of accountability, there needs to be an increased emphasis on teaching the youth *new* lessons that will resonate with them, and potentially modify their perspective on the offending behaviour they chose to engage in.

The participants indicated that the lesson needed to be proportionate to the offence, which from their understanding meant that the response needed to be directly associated with the offending behaviour. Therefore a question can be raised: if the response has no connection to the offence, what type of lesson is being taught, and why? In other words, if the lessons being taught are not associated with the offence, what purpose are they intended to serve? Von Hirsch's (1976) theory of Just Deserts supports this principle of proportionality and the relationship between the offence and the response. This theory suggests that a person guilty of committing an offence has done wrong and should 'pay the price' for that specific offence. In other words, the punishment they receive should specifically target the seriousness of the offence they are guilty of committing.

Similar to the concerns raised around the lessons being taught, a number of components within the scope of extrajudicial sanctions did not have a direct connection to any specific offence from the perspective of the youth. For example, some participants offered the examples of writing an essay or completing a newspaper assignment about the impact of having a criminal record. Although these components of an EJS may be associated with the potential or future impact of the young person's offending behaviour, there is nothing about these assignments per se that specifically addresses the criminal acts the youth were charged with. Therefore, some youth were left wondering what these EJS programs were holding them accountable for.

Ward and Kupchik (2009) address this issue within their study about orientations of accountability within the realm of juvenile justice. They discuss juvenile accountability as occurring on two levels. On one hand there is the institutional level which focuses on procedure, authority, and decisive action when there is a violation of either. Additionally, accountability can be viewed on an individual level – associated with personal responsibility of the offender, awareness of the behaviour and the impact on the person. The findings of the current study would suggest that youth perceptions of fair and proportionate accountability are thought about more on an individual level, compared to some of the EJS components that appeared to address this principle on an institutional level.

One area that might be addressing both levels of accountability is the impact of the *process* on the young person. Despite the fact that the purpose of diversion is to keep youth out of the formal justice system, in order for a youth to receive an extrajudicial sanction they are required to appear in court after having been formally charged. In other

words, they are not completely removed from exposure to the courts and the processes associated with the formal justice system. Within this study, one theme that emerged around the principle of fair and proportionate accountability was being held accountable by the actual *process* of and attending court.

The onerous nature of coming to court impacts the way youth construct their understanding of the justice system as a whole and impacts the ways in which they interpret their experience with extrajudicial sanctions. The findings indicate that some youth were held accountable more by the process of attending court, and the time commitment associated with that, than the specific requirements of the EJS. This finding reveals an irony of youth justice. The criminal justice response of diversion – meant to keep youth out of court – makes youth accountable because they appear in court to receive diversion, rather than some of the components of the EJS themselves.

The impact of the court process has historically been supported within the literature. Feeley's classic study (1979) explored the impact that the process of attending court has on the accused and he suggested that the process is, in fact, the punishment. His perspective is consistent with the responses of the participants within the present study, in that the process of coming to court was onerous enough to hold the youth accountable for their actions. One way this can be seen is through the time commitment associated with attending court and entering into an extrajudicial sanction. Many participants reported that it was the time commitment – more specifically what they considered to be “wasted time” – that taught them that the behaviour they engaged in was not worth the “punishment,” and that the process was something they did not want to encounter again in the future. Feely

(1979) articulates some detail about the court process and why it may be viewed as

“wasted time”:

Continuances necessitate additional court visits by defendants. While these frequently work to their [lawyers] benefit, defendants often view them as a problem, as something to be avoided. Witnesses fail to appear, the defence attorney may be involved in a trial in another court, and his client may be aware of it only after waiting through the morning for his case to be called. The prosecutor and defence attorney may not have taken time to talk over the case, and might casually agree to continue it for still one more day without thinking of the inconvenience this may cause the defendant and his family. Defendants without attorneys are typically told to appear early in the day but are invariably called last, after the court obliges private counsel and public defenders. Each continuance means the loss not only of a few minutes spend before the bench, but also of a major portion of the work day, something that few defendants and their employers are likely to view favourably (p. 32).

As suggested by Feeley (1979) and the reports of the participants within this study, the time commitment associated with having to appear in court may, in fact, be enough to hold a young person accountable for their actions. In fact many participants in the current study suggested that their experience in court would impact their decision to avoid engaging in any future offending behaviour. There is a need for further research into the specific components included within extrajudicial sanctions and their ability to hold youth accountable, from the perspective of the young person.

### ***Rehabilitation and Reintegration***

The emphasis that rehabilitation and reintegration has been given within the *YCJA* reinforces the belief that youth are more amenable to learning and change compared to adults, and are in a period in their lives when mistakes are inevitable. (Bala & Anand, 2009). One way the legislation attempts to encourage this principle is by addressing the underlying causes of the offending behaviour (as seen in the Preamble and Section 3 of the

*YCJA*). The interviews conducted within the present study reveal that there is potential for extrajudicial sanctions to be successful in terms of the effort to rehabilitate youth in conflict with the law, within the limits of fair and proportionate accountability. However, this was primarily the case when the young person was participating in counselling. Counselling was the only component that was reported to address the underlying needs of the young person and improve areas of their lives such as: knowledge of oneself, life skills, and important relationships.

It has been reported that, if facilitated correctly, counselling has been shown to be an effective method to address the social and emotional stress faced by youth (Feltham, 2002). Feltham (2002) argues that children and youth today experience an unprecedented amount of challenges within the home, school and society and that counselling is an effective way to address these issues. Similarly, Masters (2004) argues that counselling can be particularly beneficial for youth in conflict with the law by helping them develop effective communication skills and by providing an alternate perspective on how to handle different life problems.

Despite the potential benefits that counselling can have for youth going through diversion it was not a component that was frequently attached to extrajudicial sanctions for the participants. It is possible that this may be due to limited resources available for programs tailored towards youth in conflict with the law. In fact, Bala and Anand (2009) state that although there is an emphasis on addressing the underlying causes of youth offending through the key principles guiding responses to youth crime, “the Act simply recognizes the importance of a strategy that prevents youth crime through social development; it does not compel governments to allocate more resources to such

endeavours” (p. 684-685). The findings of this study suggest that it may be important to provide more services such as counselling that provide the opportunity for youth to be involved along with their families, in order to ensure rehabilitation of the offender.

According to the legislation, once the offender has been rehabilitated, the type of response they receive should also aim to support reintegration back into the community. Currently the legislation and majority of the literature refer to community in terms of location and broader geographical area (Endres, 2004; Mann, Girard, Senn, Ackbar, 2007). However, one study suggests that community is more associated with the connections made between individuals which are a result of developing personal bonds within those relationships (McCold & Wachtel, 1998). Consistently, the youth descriptions of the way they construct community were associated with the strong connections with their family and friends, and it was those relationships that they associated with *their* community.

Similar to the term rehabilitation, the prefix “re” implies a return to a previous state. However, if the young person did not report any sense of connection with their surrounding neighbourhood, the question becomes, what type of community does the *YCJA* intend to reintegrate the young person into? Based on the youth descriptions of community, EJS programs might be improved by focusing on important supports identified by youth, and repairing those relationships through components such as counselling.

It has been stated that “[t]he most successful community-based programs are those that emphasize family interactions” (Greenwood, 2008, p.198). Furthermore, Greenwood (2008) suggests that family focused programs that address interactions between family members, increase problem solving skills, improve emotional connections, and provide guidance to the adults on parenting strategies were particularly effective in addressing

youth criminal behaviours. The potential impact of family focused programs within Canada is consistent with the findings presented within this study, not only around rehabilitation, but also in terms of meaningful consequences. Having the family involved in the process was reported as being particularly meaningful to the youth.

Two points need to be emphasized about the finding of rehabilitative components such as counselling and broader family focused programs attached to extrajudicial sanctions. First, there appears to be a tension that emerges, in some cases, between rehabilitation on the one hand and meaningful consequences and proportionality on the other hand. The need and intensity of rehabilitative efforts must be put in the context that youth participating in an EJS have committed relatively non-serious offences in the first place and proportionality needs to be adhered to. Therefore rehabilitation needs to be balanced against the seriousness of the offence (Bala and Anand 2009). Second, it may be that not all youth who were interviewed required rehabilitative components as part of their EJS.

At the same time, research in Ontario reveals that police often hope/intend that youth who have received an EJS in the past, if charged again, should be processed by the court before a judge (Marinos and Innocente, 2008). EJS components that focus on repairing meaningful relationships to youth might be an important crime prevention tool in addressing reintegration, if the intention of the *YCJA* is to focus on the youth's involvement within the broader community, in addition to their family and established close relationships; the emphasis should be on an introduction to services and supports that are available. It may be important to build on those relationships, as opposed to restoring something that may not have been there in the first place. There may be a need to re-



evaluate the existing components that are available within extrajudicial sanctions, and create new components to address the underlying causes of youth offending by connecting youth with services in the community.

## Conclusion

The introduction of the *Youth Criminal Justice Act (YCJA)* in 2003, presented a response to a growing concern around Canada's high use of custody (Bala & Anand, 2009). With the newly reinforced principles under the current youth justice legislation (meaningful consequences, fair and proportionate accountability, and rehabilitation and reintegration), and an emphasis on treating less serious offences outside traditional court proceedings, Canada saw an increase in the use of diversion. However, it was unclear how these principles were understood both by youth justice professionals and the youth themselves. Based on the fact that the young person is the focus of these programs and the one intended to experience these principles, it was important to focus on the youth perspective. Specifically, the purpose of the present study was to explore the overall experiences of the youth in relation to the fundamental principles outlined within the legislation.

This study explored youth's perceptions and understandings of their experiences with extrajudicial sanctions and how these relate to the key principles outlined within the *YCJA*. A total of 33 semi-structured interviews were conducted (20 during Phase I and 13 during Phase II) with youth between the ages of 12 and 17.

The themes that emerged throughout this study, including important relationships, lessons learned, the process of coming to court, and community based on close relationships, are reflective of the entire *process* of attending court, accepting an EJS, and completing the required components, and are not mutually exclusive across principles.

In particular, one finding that has shown to be consistent across principles is the impact that specific components had on the young person (such as counselling) while

others were deemed ineffective by the participants (such as writing an essay). This suggests the importance of the need to evaluate the *type* of programs that are available under extrajudicial sanctions, and the ability of these programs to meet the needs of the young person. Furthermore, the findings emphasize that in order for diversion to address the three key principles promoted within the *YCJA* there is a need for responses to youth offending to be multidimensional. One way to examine this was by looking at the *entire process* of completing an EJS – pre and post program – which would include being charged, attending court, and completing the required components/programs.

Overall, this study suggests that extrajudicial sanctions may be accomplishing goals of meaningful consequences and fair and proportionality from the perspective of these youth. The presence of important relationships and learning a lesson from your experiences were highly associated with both principles. However, not much can be concluded for the presence of rehabilitation and reintegration. A much closer look at the type of community/society, referred to within the legislation, is required and the type of responses within the context of extrajudicial sanctions is required to ensure that this principle is being met.

The present study provides insight into the ways youth participating in extrajudicial sanctions understand the key principles promoted by the *YCJA* and the way these principles translate into their experiences. The findings suggest that there are important components of the youth justice process and the types of components these youth are completing that needs to be examined further and may have a significant impact on the future implementation of these programs.

***Implications for Policy and Practice***

The findings from this study reflect a number of important implications for policies affecting young persons under the law and the practice of administering extrajudicial sanctions in Toronto. In particular, the findings represent specific areas that were given considerable emphasis by the youth as being important and influential within their own lives, such as learning lessons associated with their self-identity and improving relationships with family. Given that the youth are the ones participating in these post-charge diversions, the research suggests that it is important for criminal justice professionals such as police and Crowns to consider these factors in future practices involving extrajudicial sanctions.

As demonstrated in the findings of this research, the types of responses that are included under extrajudicial sanctions may benefit from further analysis. Based on the reports from the youth within this study there are certain components – such as essay writing and newspaper assignments – that are perceived as ineffective in achieving any of the three principles emphasized under the *YCJA*. Taking a closer look at the types of programs and components the youth are required to complete would be very important for the practical implementation of programming for EJS and may help to narrow down certain components that are more effective and influential for youth.

***Limitations and Future Research***

Through including the voices of the young person, this study was able to provide a look into the ways in which youth understand and perceive their experiences with extrajudicial sanctions, specifically within the context of the key principles outlined in the *YCJA*. However, because this is an initial exploration into this area there are a number of questions that future research will be able to explore on a deeper level.

Firstly, the study was limited to the youth who were present at the one courthouse used for data collection. Future research will benefit from exploring different courthouses in Toronto and even in Ontario. This will provide greater insight into the differences across cities and jurisdictions. Similarly it will enable further analysis to be conducted around the allocation of resources and the type of services that are available for EJS programming in different locations, as well as asking justice officials such as police and Crowns about how they interpreted the key principles of the *YCJA* in youth EJS cases.

Secondly, future research will benefit from exploring the impact of these programs on a longitudinal scale. Based on the impacts that have been reported within the present study, it is important to examine how these impacts will last over time. For example, for those participants who reported experiencing an improvement to family relationships, will these improved relationships remain improved? And if they do, what type of impact might they have on potential future offending behaviours? These are questions that were not within the scope of the present study, but would be beneficial to explore on a longitudinal scale.

Finally, the project provided some insight into the different types of responses that are available for youth under the umbrella of extrajudicial sanctions. This study was

primarily focused on how these types of responses are promoting the key principles found in the *YCJA* from the perspective of the young person, and the findings indicate that specific requirements, such as writing an essay and completing a newspaper article assignment, had no reported impact on the young person in relation to meaningful consequences, fair and proportionate accountability, or rehabilitation and reintegration. However these were components that were required of many participants. Based on these findings it will be important to take a closer look at the services being offered to youth. Future research would benefit from further detailed examination into the different types of components available to youth under extrajudicial sanctions, what their purpose is and the impact they have on the youth completing them.

## References

- Arnett, J.J. (2000). Emerging Adulthood: A theory of development from the late teens through the twenties. *American Psychologist*, 55(5), 469-480.
- Bala, N. (2007). *Responding to Young Offenders: Diversion, detention & sentencing under Canada's YCJA*. Queen's University Legal Studies Research Paper No. 07-10. (Retrieved on September 5, from, <http://ssrn.com/abstract=1023893>)
- Bala, N. & Anand, S. (2004). The First Months under the Youth Criminal Justice Act: A survey and analysis of case law. *Canadian Journal of Criminology and Criminal Justice*, 46(3), 251-271.
- Bala, N. & Anand, S. (2009). *Youth Criminal Justice Law (2nd Ed.)* Toronto, Canada: Irwin Law.
- Bala, N. & Roberts, J. (2006). *Canada's Juvenile Justice System: promoting community-based responses to youth crime*. In J. Junger-Tas and S.H. Decker (eds), *International Handbook of Juvenile Justice*, p.37-64. Dordrecht, The Netherlands:Springer.
- Bala, N., Carrington, P.J. & Roberts, J.V. (2009). Evaluating the Youth Criminal Justice Act After Five Years: A qualified success. *Canadian Journal of Criminology and Criminal Justice*, 51(2), 131-167.
- Barnhorst, R. (2004). Youth Criminal Justice Act: New directions and implementation issues. *Canadian Journal of Criminology and Criminal Justice* 46(3), 231-250).
- Bell, S. (2003). *Young Offenders and Juvenile Justice: A century after the fact*. Scarborough: Nelson.
- Campbell, K. (2005). *Understanding Youth Justice in Canada*. Toronto, ON: Pearson Education Canada.

*Canadian Charter of Rights and Freedoms* (1982). Statute of Canada.

Carrington, P.J. & Schulenberg, J.L. (2005). *The Impact of the Youth Criminal Justice Act on Police Charging Practices with Young Persons: A preliminary statistical assessment*.  
Ottawa, On: Department of Justice Canada.

Clarke, L.H., Griffin, M. (2008). Failing bodies: Body image and multiple chronic conditions in later life. *Qualitative Health Research*, 18(8), 1084-1095.

Corbin, J.M. & Strauss, A. (1990). *Basics of Qualitative Research: Grounded theory procedures and techniques*. Thousand Oaks, CA, US: Sage Publications.

Danby, S. & Farrell, A. (2004). Accounting for Young People's Competence in Educational Research: New Perspectives on Research Ethics. *Australian Educational Researcher*, 31(3), 35-49.

Doob, A.N. & Cesaroni, C. (2004). *Responding to Youth Crime in Canada*. Toronto: University of Toronto Press.

Endres, K. (2004). The Youth Criminal Justice Act: The new face of Canada's youth criminal justice system. *Family Court Review*, 42(3), 526-539.

Feeley, M. (1979). *The Process is the Punishment*. New York: Russell Sage.

Feltham, C. (Ed.) (2002). *What's the Good of Counselling and Psychotherapy? The benefits explained*. London: Sage.

Glaser, B.G. & Strauss, A.L. (1967). *The discovery of grounded theory: Strategies for qualitative research*. Chicago, Illinois: Aldine Publishing Company.

Greenwood, P. (2008). Prevention and Intervention for Juvenile Offenders. *The Future of Children*, 18(2), 185-210.



- Guest, G., Bunce, A. & Johnson, L. (2006). How Many Interviews Are Enough? An experiment with data saturation and variability. *Field Methods*, 18(1), 59-82.
- Harris, P., Weagant, B., Cole, D. & Werinper, F. (2004). Working “In the Trenches” with the YCJA. *Canadian Journal of Criminology and Criminal Justice*, 46(3), 367-390.
- Hartnagel, T. F. (2004). The rhetoric of youth justice in Canada. *Criminal Justice*, 4(4), 355-374.
- Juvenile Delinquents Act* (1908). Statute of Canada.
- Koffman, L. & Dingwall, G. (2007). The Diversion of Young Offenders: A proportionate response? *Web Journal of Current Legal Issues*.
- Kowalski, M. (1999). Alternative Measures for Youth in Canada. *Statistics Canada*, 19(8), 1-12.
- Landau, T. (2004). How to Put the Community in Community-Based Justice: Some views of participants in criminal court diversion. *The Howard Journal*, 43(2), 131-148.
- Lo, T.W., Maxwell, G.M. & Wong, D.S.W. (2006). Diversion from Youth Courts in Five Asia Pacific Jurisdictions. *International Journal of Offender Therapy and Comparative Criminology*, 50(1), 5-20.
- Lochner, L. (2007). Individual Perceptions of the Criminal Justice System. *The American Economic Review*, 97(1), 444-460.
- Maclure R., Campbell, K. & Dufresne, M. (2003). Young Offender Diversion in Canada: Tensions and contradictions of social policy appropriation. *Policy Studies*, 24(1), 135-150.
- Mann, R.M., Girard, A., Senn, C.Y. & Ackbar, S. (2007). Community-Based Interventions for At-Risk Youth in Ontario under Canada’s Youth Criminal Justice Act: A case study of a “runaway girl”. *Canadian Journal of Criminology and Criminal Justice*, 49(1), 37-74.

- Marinos, V. & Innocente, N. (2008). Factors Influencing Police Attitudes towards Extrajudicial Measures under the Youth Criminal Justice Act. *Canadian Journal of Criminology and Criminal Justice*, 50(4), 469-489.
- Masters, R.E. (2004). *Counselling Criminal Justice Offenders* (2nd ed.). Thousand Oaks, CA: Sage.
- Matheson, J.L. & McCollum. (2008). Using metaphors to explore the experiences of powerlessness among women in 12-step recovery. *Substance Use and Misuse*, 43(8/9), 1027-1044.
- Maxwell, G., Kingi, V., Robertson, J., Morris, A. & Cunningham, C. (2004). *Achieving Effective Outcomes in Youth Justice: Final Report*. Wellington: Ministry of Social Development.
- McCold, P. & Watchel, B. (1998). Community is Not a Place: A new look at community justice initiatives. *Contemporary Justice Review*, 1(1), 71-85.
- Milligan, S. (2010). *Youth Court Statistics, 2008/2009*. (Retrieved on August 14, 2011 from <http://www.statcan.gc.ca/pub/85-002-x/2010002/article/11294-eng.htm>).
- Morrow, T. (2008). How Effective is Offender-Reflective Practice in their Own Learning when Using Games to Develop Positive changes in their Social Communication Skills? *Reflective Practice*, 9(3), 329-340.
- Olivo, L., Cotter, R. & Bromwich, R. (2007). Youth and the law: New approaches to criminal justice and child protection (2<sup>nd</sup> ed.). Toronto: Emond Montgomery Publications Ltd.
- Osgoode, D.W. & Weichselbaum, H. F. (1984). Juvenile Diversion: When practice matches theory. *Journal of Research in Crime and Delinquency*, 21(1), 33-56.

- Pager, D. (2003). The Mark of a Criminal Record. *American Journal of Sociology*, 108(5), 937-975.
- Peterson-Badali, M., Ruck, M.D., & Koegl, C.J. (2001). Youth court dispositions: Perceptions of Canadian juvenile offenders. *International Journal of Offender Therapy and Comparative Criminology*, 45(5), 593-605.
- Pratt, J. (1986). Diversion from the Juvenile Court. *British Journal of Criminology*, 25(3), 212-233.
- Roberts, J.V. (2003). Sentencing Juvenile Offenders in Canada: An analysis of recent reform legislation. *Journal of Contemporary Criminal Justice*, 19(4), 413-434.
- Robinson, G. & Crow, I. (2009). *Offender Rehabilitation: Theory, research and practice*. London: Sage Publications Ltd.
- Sloan, J.J. III & Miller, J.L. (1990). Just Deserts, the Severity of Punishment and Judicial Sentencing Decisions. *Criminal Justice Policy Review* (4), 19-38.
- Umbreit, M.S., Vos. B. & Coates, R.B. (2006). *Restorative Justice Dialogue: Evidence-based practice*. Minneapolis, MN: University of Minnesota, Center for Restorative Justice & Peacemaking (Retrieved, on January 15, 2010 from [http://www.cehd.umn.edu/ssw/rjp/PDFs/RJ\\_Dialogue\\_Evidence-based\\_Practice\\_1-06.pdf](http://www.cehd.umn.edu/ssw/rjp/PDFs/RJ_Dialogue_Evidence-based_Practice_1-06.pdf))
- UNCRC (1989) United Nations Convention on the Rights of the Child. Canada: Canadian Heritage.
- Von Hirsch, A. (1976). *Doing Justice: The choice of punishments*. New York: Hill and Wang
- Von Hirsch, A. (1992). Proportionality in the Philosophy of Punishment. *Crime and Justice*, (16), 55-98.

Ward, G. & Kupchik, A. (2009). Accountable to What? Professional orientations towards accountability-based juvenile justice. *Punishment and Society*, 11(1), 85-109.

*Youth Criminal Justice Act* (2003). Statute of Canada.

*Young Offenders Act* (1984). Statute of Canada.

## Appendix A – Recruitment Script

Hello, my name is Carolyn Hyde and I am a graduate student from Brock University. I am conducting a study on youth experiences within extrajudicial sanctions programs. Specifically, I want to know your perspectives and opinions on your experiences within your assigned program. There are two parts to this study. If you have a few moments I would like to tell you a little more about the study and how you can help.

(Should the youth show interest in learning more, I will continue with the following. However, should they not show any interest, I will end any contact there.)

If you wish to participate, you will have an opportunity to win a \$100 Best Buy gift certificate *and* an opportunity to earn \$10??

However, I want to make very clear that participation in this study is entirely voluntary and there are no penalties for not wanting to.

(Again, should the youth show interest in learning more, they will be provided with the letter of invitation which clearly lays out participation requirements and I will also verbally discuss with them what will happen if they choose to participate.)

## **Appendix B – Ethics Approval**

### **Certificate of Ethics Clearance for Human Participant Research**

#### **Brock University**

#### **Research Ethics Board**

**Tel: 905-688-5550 ext. 3035**

**Email: reb@brocku.ca**

**DATE:** August 6, 2010  
**PRINCIPAL INVESTIGATOR:** MARINOS, Voula - Child and Youth Studies  
**FILE:** 10-007 - MARINOS  
**TYPE:** Masters Thesis/Project  
**STUDENT:** Carolyn Hyde  
**SUPERVISOR:** Voula Marinos

**TITLE:** An examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

### **ETHICS CLEARANCE GRANTED**

Type of Clearance: New

Expiry Date: 8/31/2011

The Brock University Research Ethics Board has reviewed the above named research proposal and considers the procedures, as described by the applicant, to conform to the University's ethical standards and the Tri-Council Policy Statement. Clearance granted from 8/6/2010 to 8/31/2011. The Tri-Council Policy Statement requires that ongoing research be monitored by, at a minimum, an annual report. Should your project extend beyond the expiry date, you are required to submit a Renewal form before 8/31/2011. Continued clearance is contingent on timely submission of reports.

To comply with the Tri-Council Policy Statement, you must also submit a final report upon completion of your project. All report forms can be found on the Research Ethics web page.

In addition, throughout your research, you must report promptly to the REB:

- a) Changes increasing the risk to the participant(s) and/or affecting significantly the conduct of the study;
- b) All adverse and/or unanticipated experiences or events that may have real or potential unfavourable implications for participants;
- c) New information that may adversely affect the safety of the participants or the conduct of the study;
- d) Any changes in your source of funding or new funding to a previously unfunded project.

We wish you success with your research.

Approved:

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Michelle McGinn, Chair  
Research Ethics Board (REB)

**Note:** Brock University is accountable for the research carried out in its own jurisdiction or under its auspices and may refuse certain research even though the REB has found it ethically acceptable.

If research participants are in the care of a health facility, at a school, or other institution or community organization, it is the responsibility of the Principal Investigator to ensure that the ethical guidelines and clearance of those facilities or institutions are obtained and filed with the REB prior to the initiation of research at that site.

### **Appendix C – Letter of Invitation (Phase I)**

**Title of Study:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student Investigator:** Carolyn Hyde, Masters Student, Department of Child and Youth Studies, Brock University

**Faculty Supervisor:** Dr. Voula Marinos, Professor, Department of Child and Youth Studies, Brock University

I, Carolyn Hyde, a Masters Student from the Department of Child and Youth Studies at Brock University, invite you to participate in a research project entitled: *An Examination of Youth Perceptions and Understandings of their Involvement in Extrajudicial Sanctions Programs*.

The purpose of this study is to examine how youth perceive and understand their involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

As a participant you will be asked to take part in a semi-structured interview at the Finch Courthouse. The expected duration of your interview will be approximately 30 minutes. All of the information that you provide during the course of the interview will be kept confidential, meaning that the researcher will not inform anyone else of what you tell her during the interview. If you wish, your parent/guardian may sit with you while you complete the interview. In addition, if you wish to withdraw from the study at any time, you may do so without penalty. Upon completion of the interview, your name will be entered into a draw to win a \$100 Best Buy gift card.

It is important to note that the researcher will not be asking questions regarding your past or present criminal charges. The researcher is only interested in your experiences of this particular criminal justice response.

This research will be beneficial as it allow you an opportunity to communicate your perceptions and understanding of your experiences within an extrajudicial sanctions program. Thus, a better understanding of how youth's experiences within extrajudicial sanctions programs correlate with the key dimensions outlined within the Youth Criminal Justice Act will be promoted.

Additionally, this study will contribute to an understanding of the ways in which diversionary measures within Canada are being carried out and may suggest ways in which youth justice in Canada can more effectively accomplish the goals the legislation has outlined in correlation with the needs of young people.

If you have any pertinent questions about your rights as a research participant, please contact the Brock University Research Ethics Officer (905 688-5550 ext 3035, [reb@brocku.ca](mailto:reb@brocku.ca))

If you have any questions, please feel free to contact me.



This is a multiple phase research study.

Thank you,

Carolyn Hyde  
Masters Student  
Brock University  
ch04dh@brocku.ca

Professor Voula Marinos  
Faculty Supervisor  
Brock University  
vmarinos@brocku.ca  
906-688-5550

**This study has been reviewed and received ethics clearance through Brock University's Research Ethics Board (File 10-007)**

## **Appendix D – Consent Form – Youth (Phase I)**

**Date:** June 2010

**Title:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student**

**Investigator:** Carolyn Hyde, Department of Child and Youth Studies  
Brock University, ch04dh@brocku.ca

**Faculty Supervisor:** Professor Voula Marinos, Department of Child and Youth Studies  
Brock University, vmarinos@brocku.ca

### **What is the Study About?**

I am asking you to participate in a study which will examine how you perceive and understand your involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

### **What will you have to do?**

You will be asked to participate in a semi-structured interview. During the interview you will be asked to answer a set of open-ended interview questions. The interview will be tape recorded, and will take approximately 30 minutes. The researcher will meet you outside of courtroom at the Finch Courthouse, and then will take you to a discrete space within the courthouse to ask you some questions. If you would like, your parent/guardian can sit with you while you complete the interview. After the interview, your name will be entered into a draw to win a \$100 Best Buy gift card.

It is important to note that the researcher will not be asking questions regarding your past or present criminal charges. The researcher is only interested in your experiences of this particular criminal justice response.

### **How will you Benefit?**

You will be able to openly talk to the researcher about how you perceive and understand your experiences within an extrajudicial sanctions program. Additionally, your participation will help to increase awareness on the experiences faced by young people being diverted from the formal justice system and as a result the results may be able to be a part of impacting potential changes in the ways in which diversionary measures are carried out.

### **What are the Risks?**

You might feel worried or embarrassed when participating in the interview. However, the researcher will focus on how you have perceived and understood your experiences, rather than on the crime which was committed.

If you are experiencing any feelings of distress following your participation in this study, please feel free to contact any of the following counselling services.

KIDS HELP PHONE: 1-800-668-6868, [www.kidshelpphone.ca](http://www.kidshelpphone.ca)

**The Self-Help Resource Centre:** 416-487-4355, for self-help groups

**Confidentiality:**

Anonymity cannot be guaranteed (meaning that the researcher will know who you are) since you will be participating in an interview. However, everything that you tell the researcher is confidential, meaning that no one else will know what you say during the interview.

The researcher also has a requirement to report any information of harm to yourself or to another person to the police. Additionally, any information given by you at your own free will, relating to a criminal investigation or commission of a crime will be reported by the researcher to the appropriate authorities.

The information that you provide will be kept in a locked cabinet at Brock University, to ensure that no one other than the researcher and her supervisor have access to anything that you say.

Participation in the interview will not change your charges. The researcher will not be giving you any advice on legal matters. Participation in this study is your choice. If you do not want to answer a question, you do not have to. Also, you may decide to leave the interview at any time, without anyone getting angry or upset. If you do leave the interview, all of the information that you told the researcher will be destroyed.

Information from this study may be published in research journals and presented at conferences. Your name will not be written in any report about this study; however, if you agree, the researcher may use anonymous quotes (meaning that something that you said might be written down, but your name will not appear) that you provide during the interview.

If you would like to know what the researcher found out during this study, please circle YES at the bottom of this form and provide your email address. If you wish to see this information at a later date, you may email the researcher.

**Contact Information and Ethics Clearance**

If you have any questions about this study, feel free to ask the researcher at any time. You may also contact her, or her supervisor, Voula Marinos, using the contact information provided at the top of this form.

This study has been received ethics clearance through the Research Ethics Board at Brock University (**File 10-007**). If you have any questions about your rights as a research participant, please contact the Research Ethics Office at (905) 688-5550 Ext. 3035, reb@brocku.ca.

Thank you for your help. Please keep a copy of this form for your records.

**I agree to participate in this study described above. I would like to participate based on the information I have read in this Letter. I have had a chance to ask any questions, and I know that I can ask more questions at any time. I understand that I can decide not to participate, or answer any questions at any time.**

Once this study is complete do you wish to receive a copy of the findings? (Circle your response):                      YES                      NO

If you answered YES, please provide your email address: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Follow Up Interview**

This is a multiple phase study. A follow up interview will be conducted following the completion of your assigned extrajudicial sanction. The researcher will contact you following the completion of your EJS in order to determine a mutually agreed upon meeting place for the completion of the follow up interview.

Please provide the appropriate contact information below for the researcher to contact you in order to complete the follow up interview.

Home Phone Number: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## **Appendix E – Assent Form – Youth (Phase I)**

**Date:** June 2010

**Title:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student**

**Investigator:** Carolyn Hyde, Department of Child and Youth Studies  
Brock University, ch04dh@brocku.ca

**Faculty Supervisor:** Professor Voula Marinos, Department of Child and Youth Studies  
Brock University, vmarinos@brocku.ca

### **What is the Study About?**

I am asking you to participate in a study which will examine how you perceive and understand your involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

### **What will you have to do?**

You will be asked to participate in a semi-structured interview. During the interview you will be asked to answer a set of open-ended interview questions. The interview will be tape recorded, and will take approximately 30 minutes. The researcher will meet you outside of courtroom at the Finch Courthouse, and then will take you to a discrete space within the courthouse to ask you some questions. If you would like, your parent/guardian can sit with you while you complete the interview. After the interview, your name will be entered into a draw to win a \$100 Best Buy gift card.

It is important to note that the researcher will not be asking questions regarding your past or present criminal charges. The researcher is only interested in your experiences of this particular criminal justice response.

### **How will you Benefit?**

You will be able to openly talk to the researcher about how you perceive and understand your experiences within an extrajudicial sanctions program. Additionally, your participation will help to increase awareness on the experiences faced by young people being diverted from the formal justice system and as a result the results may be able to be a part of impacting potential changes in the ways in which diversionary measures are carried out.

### **What are the Risks?**

You might feel worried or embarrassed when participating in the interview. However, the researcher will focus on how you have perceived and understood your experiences, rather than on the crime which was committed.

If you are experiencing any feelings of distress following your participation in this study, please feel free to contact any of the following counselling services.

KIDS HELP PHONE: 1-800-668-6868, [www.kidshelpphone.ca](http://www.kidshelpphone.ca)

**The Self-Help Resource Centre:** 416-487-4355, for self-help groups

**Confidentiality:**

Anonymity cannot be guaranteed (meaning that the researcher will know who you are) since you will be participating in an interview. However, everything that you tell the researcher is confidential, meaning that no one else will know what you say during the interview.

The researcher also has a requirement to report any information of harm to yourself or to another person to the police. Additionally, any information given by you at your own free will, relating to a criminal investigation or commission of a crime will be reported by the researcher to the appropriate authorities.

The information that you provide will be kept in a locked cabinet at Brock University, to ensure that no one other than the researcher and her supervisor have access to anything that you say.

Participation in the interview will not change your charges. The researcher will not be giving you any advice on legal matters. Participation in this study is your choice. If you do not want to answer a question, you do not have to. Also, you may decide to leave the interview at any time, without anyone getting angry or upset. If you do leave the interview, all of the information that you told the researcher will be destroyed.

**Publication of Results:**

Information from this study may be published in research journals and presented at conferences. Your name will not be written in any report about this study; however, if you agree, the researcher may use anonymous quotes (meaning that something that you said might be written down, but your name will not appear) that you provide during the interview.

If you would like to know what the researcher found out during this study, please circle YES at the bottom of this form and provide your email address. If you wish to see this information at a later date, you may email the researcher.

**Contact Information and Ethics Clearance**

If you have any questions about this study, feel free to ask the researcher at any time. You may also contact her, or her supervisor, Voula Marinos, using the contact information provided at the top of this form.

This study has been received ethics clearance through the Research Ethics Board at Brock University (**File 10-007**). If you have any questions about your rights as a research participant, please contact the Research Ethics Office at (905) 688-5550 Ext. 3035, reb@brocku.ca.

Thank you for your help. Please keep a copy of this form for your records.

**I agree to participate in this study described above. I would like to participate based on the information I have read in this Letter. I have had a chance to ask any questions, and I know that I can ask more questions at any time. I understand that I can decide not to participate, or answer any questions at any time.**

Once this study is complete do you wish to receive a copy of the findings? (Circle your response):                      YES                      NO

If you answered YES, please provide your email address: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Follow Up Interview**

This is a multiple phase study. A follow up interview will be conducted following the completion of your assigned extrajudicial sanction. The researcher will contact you following the completion of your EJS in order to determine a mutually agreed upon meeting place for the completion of the follow up interview.

Please provide the appropriate contact information below for the researcher to contact you in order to complete the follow up interview.

Home Phone Number: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## **Appendix F – Informed Consent Form – Parent/Guardian (Phase I)**

**Date:** June 2010

**Research Project Title:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student**

**Investigator:** Carolyn Hyde, Department of Child and Youth Studies  
Brock University, ch04dh@brocku.ca

**Faculty Supervisor:** Professor Voula Marinou, Department of Child and Youth Studies  
Brock University, vmarinou@brocku.ca

### **Purpose of Study:**

Your child has been invited to participate in a study that involves research. The purpose of this study is to examine how youth perceive and understand their involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

### **What is Involved?**

As a participant, your child will be asked to participate in a semi-structured interview, containing open-ended questions. The interview will be tape recorded, and will be approximately 30 minutes in length. Once your child and the researcher meet outside of courtroom at the Finch Courthouse, they will then proceed to a discrete space within the courthouse to conduct the interview. If your child wishes, you may sit with them while they complete the interview. In appreciation for your child's participation, their name will be put into a draw for a \$100 Best Buy gift certificate for participating.

It is important to note that the researcher will not be asking questions regarding your child's past or present criminal charges. The researcher is only interested in the youth's experiences of this particular criminal justice response.

### **Potential Benefits and Risks**

Possible benefits of participation include the opportunity for your child to openly discuss how they have understood their experiences with extrajudicial sanctions programs. Further, they will have the opportunity to participate in research and consequently increase awareness on the experiences faced by young people being diverted from the formal justice system and as a result they may be able to be a part of impacting potential changes in the ways in which diversionary measures are carried out.

There are minimal psychological risks associated with participating in this study. As a result of your child talking about their experiences, negative feelings or emotions may arise, causing emotional distress. Additionally, feelings of being demeaned, embarrassed, worried or upset may also occur. However, the researcher will do her utmost to ensure that risks do not occur by focusing on how the youth's experience within the program, rather than on the crime which was committed.

If your child is experiencing any feelings of distress following their participation in this study, please feel free to contact any of the following counselling services.

KIDS HELP PHONE: 1-800-668-6868, [www.kidshelpphone.ca](http://www.kidshelpphone.ca)

**The Self-Help Resource Centre:** 416-487-4355, for self-help groups



**Confidentiality:**

All information provided during the course of this study will be kept confidential at all times. However, in the event that information is disclosed which indicates potential harm to your child or others, the police will be notified. Additionally, any information given by youth, by his or her own free will, relating to a criminal investigation or commission of a crime will be reported by the researcher to the appropriate authorities.

Anonymity cannot be guaranteed since your child will be participating in a face to face interview. Data collected during this study will be stored in a locked storage cabinet in Professor Marinos office at Brock University, and therefore only she and the researcher will have access to the data. All information will be stored for seven years, after which time all paper documents will be shredded and audio tapes will be destroyed.

It is important to remember that participation in this study will not have any impact on the disposition of your child's charges. Further, as a researcher I will not be providing advice or counsel on legal matters.

Participation in this study is voluntary. Your child may refuse to answer any questions or participate in any component of the study. Further, your child may decide to withdraw from this study at any time and may do so without any penalty. In the event that your child does withdraw from the study, all of their data will be destroyed.

**Publication of Results:**

Results of this study may be published in professional journals and presented at conferences. Your child's name will not appear in any report resulting from this study; however, with your permission anonymous quotes may be used.

Upon completion of this study, results will be made available. If you wish to receive a copy of the results, please circle YES at the bottom of this form and provide your email address.

Alternatively, if you wish to receive feedback at a later date, you may contact the principle investigator via email.

**Contact Information and Ethics Clearance**

If you have any questions about this study or require further information, please contact the Principal Investigator or the Faculty Supervisor using the contact information provided above. This study has been reviewed and received ethics clearance through the Research Ethics Board at Brock University (**File 10-007**). If you have any comments or concerns about your child's rights as a research participant, please contact the Research Ethics Office at (905) 688-5550 Ext. 3035, reb@brocku.ca.

Thank you for your assistance in this project. Please keep a copy of this form for your records.

**I give permission for my child to participate in this study described above. I have made this decision based on the information I have read in the Information-Consent Letter. I have had the opportunity to receive any additional details I wanted about the study and understand that I may ask questions in the future. I understand that my child may withdraw this consent at any time.**

Upon completion of this study do you wish to receive a copy of the findings? (Circle your response):                      YES                      NO

If you answered YES, please provide your email address: \_\_\_\_\_

Name of Parent/Guardian: \_\_\_\_\_

Signature of Parent/Guardian: \_\_\_\_\_

Date: \_\_\_\_\_

**Follow Up Interview**

This is a multiple phase study. A follow up interview will be conducted following your child's completion of their assigned extrajudicial sanction. The researcher will contact you and your child following the completion of their EJS in order to determine a mutually agreed upon meeting place for the completion of the follow up interview.

Please provide the appropriate contact information below for the researcher to contact you and your child in order to complete the follow up interview.

Home Phone Number: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## Appendix G - Letter of Invitation (Phase II)

**Title of Study:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student Investigator:** Carolyn Hyde, Masters Student, Department of Child and Youth Studies, Brock University

**Faculty Supervisor:** Dr. Voula Marinos, Professor, Department of Child and Youth Studies, Brock University

I, Carolyn Hyde, a Masters Student from the Department of Child and Youth Studies at Brock University, invite you to participate in a research project entitled: *An Examination of Youth Perceptions and Understandings of their Involvement in Extrajudicial Sanctions Programs*.

The purpose of this study is to examine how youth perceive and understand their involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

As a participant you will be asked to take part in a follow-up interview at a mutually agreed upon location. The expected duration of your interview will be 30 minutes. All of the information that you provide during the course of the interview will be kept confidential, meaning that the researcher will not inform anyone else of what you tell her during the interview. If you wish, your parent/guardian may sit with you while you complete the interview. In addition, if you wish to withdraw from the study at any time, you may do so without penalty. Upon completion of the interview, you will receive \$10 for your participation.

It is important to note that the researcher will not be asking questions regarding your past or present criminal charges. The researcher is only interested in your experiences of this particular criminal justice response.

This research will be beneficial as it allow you an opportunity to communicate your perceptions and understanding of your experiences within an extrajudicial sanctions program. Thus, a better understanding of how youth's experiences within extrajudicial sanctions programs correlate with the key dimensions outlined within the Youth Criminal Justice Act will be promoted.

Additionally, this study will contribute to an understanding of the ways in which diversionary measures within Canada are being carried out and may suggest ways in which youth justice in Canada can more effectively accomplish the goals the legislation has outlined in correlation with the needs of young people.

If you have any pertinent questions about your rights as a research participant, please contact the Brock University Research Ethics Officer (905 688-5550 ext 3035, [reb@brocku.ca](mailto:reb@brocku.ca))

If you have any questions, please feel free to contact me.

This is a multiple phase research study.

Thank you,

Carolyn Hyde  
Masters Student  
Brock University  
[ch04dh@brocku.ca](mailto:ch04dh@brocku.ca)

Professor Voula Marinos  
Faculty Supervisor  
Brock University  
[vmarinos@brocku.ca](mailto:vmarinos@brocku.ca)  
906-688-5550

**This study has been reviewed and received ethics clearance through Brock University's  
Research Ethics Board (File 10-007)**

## **Appendix H – Consent Form – Youth (Phase II)**

**Date:** June 2010

**Title:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student**

**Investigator:** Carolyn Hyde, Department of Child and Youth Studies  
Brock University, ch04dh@brocku.ca

**Faculty Supervisor:** Professor Voula Marinos, Department of Child and Youth Studies  
Brock University, vmarinos@brocku.ca

### **What is the Study About?**

I am asking you to participate in a study which will examine how you perceive and understand your involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

### **What will you have to do?**

You will be asked to participate in a semi-structured follow-up interview. During the interview you will be asked to answer a set of open-ended interview questions. Each interview will be tape recorded, and will take approximately 30 minutes. If you would like, your parent/guardian can sit with you while you complete the interview. After the interview you will receive \$10 for your participation.

It is important to note that the researcher will not be asking questions regarding your past or present criminal charges. The researcher is only interested in your experiences of this particular criminal justice response.

### **How will you Benefit?**

You will be able to openly talk to the researcher about how you perceive and understand your experiences within an extrajudicial sanctions program. Additionally, your participation will help to increase awareness on the experiences faced by young people being diverted from the formal justice system and as a result the results may be able to be a part of impacting potential changes in the ways in which diversionary measures are carried out.

### **What are the Risks?**

You might feel worried or embarrassed when participating in the interview. However, the researcher will focus on how you have perceived and understood your experiences, rather than on the crime which was committed.

If you are experiencing any feelings of distress following your participation in this study, please feel free to contact any of the following counselling services.

KIDS HELP PHONE: 1-800-668-6868, [www.kidshelpphone.ca](http://www.kidshelpphone.ca)

**The Self-Help Resource Centre:** 416-487-4355, for self-help groups

**Confidentiality:**

Anonymity cannot be guaranteed (meaning that the researcher will know who you are) since you will be participating in an interview. However, everything that you tell the researcher is confidential, meaning that no one else will know what you say during the interview.

The researcher also has a requirement to report any information of harm to yourself or to another person to the police. Additionally, any information given by you at your own free will, relating to a criminal investigation or commission of a crime will be reported by the researcher to the appropriate authorities.

The information that you provide will be kept in a locked cabinet at Brock University, to ensure that no one other than the researcher and her supervisor have access to anything that you say.

Participation in the interview will not change your charges. The researcher will not be giving you any advice on legal matters. Participation in this study is your choice. If you do not want to answer a question, you do not have to. Also, you may decide to leave the interview at any time, without anyone getting angry or upset. If you do leave the interview, all of the information that you told the researcher will be destroyed.

**Publication of Results:**

Information from this study may be published in research journals and presented at conferences. Your name will not be written in any report about this study; however, if you agree, the researcher may use anonymous quotes (meaning that something that you said might be written down, but your name will not appear) that you provide during the interview.

If you would like to know what the researcher found out during this study, please circle YES at the bottom of this form and provide your email address. If you wish to see this information at a later date, you may email the researcher.

**Contact Information and Ethics Clearance**

If you have any questions about this study, feel free to ask the researcher at any time. You may also contact her, or her supervisor, Voula Marinos, using the contact information provided at the top of this form.

This study has been received ethics clearance through the Research Ethics Board at Brock University (**File 10-007**). If you have any questions about your rights as a research participant, please contact the Research Ethics Office at (905) 688-5550 Ext. 3035, reb@brocku.ca.

Thank you for your help. Please keep a copy of this form for your records.

**I agree to participate in this study described above. I would like to participate based on the information I have read in this Letter. I have had a chance to ask any questions, and I know that I can ask more questions at any time. I understand that I can decide not to participate, or answer any questions at any time.**

Once this study is complete do you wish to receive a copy of the findings? (Circle your response):                      YES                      NO

If you answered YES, please provide your email address: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Appendix I – Assent Form – Youth (Phase II)**

**Date:** June 2010

**Title:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student**

**Investigator:** Carolyn Hyde, Department of Child and Youth Studies  
Brock University, ch04dh@brocku.ca

**Faculty Supervisor:** Professor Voula Marinos, Department of Child and Youth Studies  
Brock University, vmarinos@brocku.ca

### **What is the Study About?**

I am asking you to participate in a study which will examine how you perceive and understand your involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

### **What will you have to do?**

You will be asked to participate in a semi-structured follow-up interview. During the interview you will be asked to answer a set of open-ended interview questions. Each interview will be tape recorded, and will take approximately 30 minutes. If you would like, your parent/guardian can sit with you while you complete the interview. After the interview you will receive \$10 for your participation.

It is important to note that the researcher will not be asking questions regarding your past or present criminal charges. The researcher is only interested in your experiences of this particular criminal justice response.

### **How will you Benefit?**

You will be able to openly talk to the researcher about how you perceive and understand your experiences within an extrajudicial sanctions program. Additionally, your participation will help to increase awareness on the experiences faced by young people being diverted from the formal justice system and as a result the results may be able to be a part of impacting potential changes in the ways in which diversionary measures are carried out.

### **What are the Risks?**

You might feel worried or embarrassed when participating in the interview. However, the researcher will focus on how you have perceived and understood your experiences, rather than on the crime which was committed.

If you are experiencing any feelings of distress following your participation in this study, please feel free to contact any of the following counselling services.

KIDS HELP PHONE: 1-800-668-6868, [www.kidshelpphone.ca](http://www.kidshelpphone.ca)

**The Self-Help Resource Centre:** 416-487-4355, for self-help groups



**Confidentiality:**

Anonymity cannot be guaranteed (meaning that the researcher will know who you are) since you will be participating in an interview. However, everything that you tell the researcher is confidential, meaning that no one else will know what you say during the interview.

The researcher also has a requirement to report any information of harm to yourself or to another person to the police. Additionally, any information given by you at your own free will, relating to a criminal investigation or commission of a crime will be reported by the researcher to the appropriate authorities.

The information that you provide will be kept in a locked cabinet at Brock University, to ensure that no one other than the researcher and her supervisor have access to anything that you say.

Participation in the interview will not change your charges. The researcher will not be giving you any advice on legal matters. Participation in this study is your choice. If you do not want to answer a question, you do not have to. Also, you may decide to leave the interview at any time, without anyone getting angry or upset. If you do leave the interview, all of the information that you told the researcher will be destroyed.

**Publication of Results:**

Information from this study may be published in research journals and presented at conferences. Your name will not be written in any report about this study; however, if you agree, the researcher may use anonymous quotes (meaning that something that you said might be written down, but your name will not appear) that you provide during the interview.

If you would like to know what the researcher found out during this study, please circle YES at the bottom of this form and provide your email address. If you wish to see this information at a later date, you may email the researcher.

**Contact Information and Ethics Clearance**

If you have any questions about this study, feel free to ask the researcher at any time. You may also contact her, or her supervisor, Voula Marinos, using the contact information provided at the top of this form.

This study has been received ethics clearance through the Research Ethics Board at Brock University (**File 10-007**). If you have any questions about your rights as a research participant, please contact the Research Ethics Office at (905) 688-5550 Ext. 3035, reb@brocku.ca.

Thank you for your help. Please keep a copy of this form for your records.

**I agree to participate in this study described above. I would like to participate based on the information I have read in this Letter. I have had a chance to ask any questions, and I know that I can ask more questions at any time. I understand that I can decide not to participate, or answer any questions at any time.**

Once this study is complete do you wish to receive a copy of the findings? (Circle your response):

YES                      NO

If you answered YES, please provide your email address: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Appendix J – Informed Consent Form – Parent/Guardian (Phase II)**

**Date:** June 2010

**Research Project Title:** An Examination of Youth Perceptions and Understanding of their Involvement in Extrajudicial Sanctions Programs

**Principal Student**

**Investigator:** Carolyn Hyde, Department of Child and Youth Studies  
Brock University, ch04dh@brocku.ca

**Faculty Supervisor:** Professor Voula Marinos, Department of Child and Youth Studies  
Brock University, vmarinos@brocku.ca

### **Purpose of Study:**

Your child has been invited to participate in a study that involves research. The purpose of this study is to examine how youth perceive and understand their involvement in extrajudicial sanctions programs in relation to the key dimensions outlined by the Youth Criminal Justice Act.

### **What is Involved?**

As a participant, your child will be asked to participate in a semi-structured follow-up interview, containing open-ended questions. The interview will be tape recorded, and will be approximately 30 minutes in length. If your child wishes, you may sit with them while they complete the interview. Your child will receive \$10 for participating in the follow-up interview.

It is important to note that the researcher will not be asking questions regarding your child's past or present criminal charges. The researcher is only interested in the youth's experiences of this particular criminal justice response.

### **Potential Benefits and Risks**

Possible benefits of participation include the opportunity for your child to openly discuss how they have understood their experiences with extrajudicial sanctions programs. Further, they will have the opportunity to participate in research and consequently increase awareness on the experiences faced by young people being diverted from the formal justice system and as a result they may be able to be a part of impacting potential changes in the ways in which diversionary measures are carried out.

There are minimal psychological risks associated with participating in this study. As a result of your child talking about their experiences, negative feelings or emotions may arise, causing emotional distress. Additionally, feelings of being demeaned, embarrassed, worried or upset may also occur. However, the researcher will do her utmost to ensure that risks do not occur by focusing on how the youth's experience within the program, rather than on the crime which was committed

If your child is experiencing any feelings of distress following their participation in this study, please feel free to contact any of the following counselling services.

KIDS HELP PHONE: 1-800-668-6868, [www.kidshelpphone.ca](http://www.kidshelpphone.ca)

**The Self-Help Resource Centre:** 416-487-4355, for self-help groups

**Confidentiality:**

All information provided during the course of this study will be kept confidential at all times. However, in the event that information is disclosed which indicates potential harm to your child or others, the police will be notified. Additionally, any information given by youth, by his or her own free will, relating to a criminal investigation or commission of a crime will be reported by the researcher to the appropriate authorities.

Anonymity cannot be guaranteed since your child will be participating in a face to face interview. Data collected during this study will be stored in a locked storage cabinet in Professor Marinos office at Brock University, and therefore only she and the researcher will have access to the data. All information will be stored for seven years, after which time all paper documents will be shredded and audio tapes will be destroyed.

It is important to remember that participation in this study will not have any impact on the disposition of your child's charges. Further, as a researcher I will not be providing advice or counsel on legal matters.

Participation in this study is voluntary. Your child may refuse to answer any questions or participate in any component of the study. Further, your child may decide to withdraw from this study at any time and may do so without any penalty. In the event that your child does withdraw from the study, all of their data will be destroyed.

**Publication of Results:**

Results of this study may be published in professional journals and presented at conferences. Your child's name will not appear in any report resulting from this study; however, with your permission anonymous quotes may be used.

Upon completion of this study, results will be made available. If you wish to receive a copy of the results, please circle YES at the bottom of this form and provide your email address.

Alternatively, if you wish to receive feedback at a later date, you may contact the principle investigator via email.

**Contact Information and Ethics Clearance**

If you have any questions about this study or require further information, please contact the Principal Investigator or the Faculty Supervisor using the contact information provided above. This study has been reviewed and received ethics clearance through the Research Ethics Board at Brock University (**File 10-007**). If you have any comments or concerns about your child's rights as a research participant, please contact the Research Ethics Office at (905) 688-5550 Ext. 3035, reb@brocku.ca.

Thank you for your assistance in this project. Please keep a copy of this form for your records.

**I give permission for my child to participate in this study described above. I have made this decision based on the information I have read in the Information-Consent Letter. I have had the opportunity to receive any additional details I wanted about the study and understand that I may ask questions in the future. I understand that my child may withdraw this consent at any time.**

Upon completion of this study do you wish to receive a copy of the findings? (Circle your response):                      YES                      NO

If you answered YES, please provide your email address: \_\_\_\_\_

Name of Parent/Guardian: \_\_\_\_\_

Signature of Parent/Guardian: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix K – Interview Guide (Phase I)**

Age: \_\_\_\_\_

Sex: \_\_\_\_\_

What offence(s) have you been charged with? \_\_\_\_\_

What are the requirements of your (current) extrajudicial sanction?

-What do you have to do?

-Who does it involve?

-How long will it take?

What are your expectations for your participation in the program?

**Meaningful Consequences**

1. What comes to mind when you think of things that are meaningful to you (family, friends, hobbies, etc.)
2. In your mind, how would you define a ‘meaningful consequence’? (i.e. when is something meaningful to you? Or what does it mean for something to be meaningful to you?)
3. Have you ever had to face the consequences of actions you’ve done in your life?  
YES                      NO
  - a. If YES, were the consequences meaningful? Did they have an impact on your life?
4. Have you had any consequences (as a result of your behaviour) in your life that have been meaningful to you? If so, what were they and why were they meaningful?
5. If prior involvement with the youth justice system has been reported, was that involvement meaningful?  
YES                      NO
  - a. If YES, specifically in what ways was it meaningful?
6. Do you think that the program you have been referred to will provide you with a meaningful consequence? YES                      NO
  - b. Explain your answer: why or why not? And in what ways?
7. Do you think that any other response from the court would be just as meaningful?
  - a. Explain why you think that way.

**Accountability**

8. When people do something wrong, others might want to make them accountable for what they did. What does this mean to you?
9. Under what circumstances or conditions should people be held accountable for their crimes? (i.e. *anyone* who has committed a crime? or are there specific cases?)
  - a. How?
  - b. Why?
10. What type of response or consequence do you think is appropriate for [the type of crime they have allegedly committed]?
11. Do you think that the extrajudicial sanction program you have been referred to is an appropriate way to respond to the offence at hand?
12. Tell me how you think your involvement in this program will affect you?
  - c. For example: Do you think it will change your opinion on the types of behaviours you participate in?

**Rehabilitation and Reintegration**

13. What aspects of your life have the most impact on your behaviour?
  - a. For example: friends, family, other authority figures, siblings, etc.
14. Do you think your involvement with this EJS will influence your behaviour in any way?
  - a. Would it influence your behaviour or decision to reoffend in the future?
15. Do you think it is important for young people to feel that they are a part of their community?
  - d. Why or why not?
16. What do you think might happen to youth who feel disconnected from the community they live in?
17. What does it mean to be a valuable member of a community?
18. Do you feel like *you* are a valuable part of your community? YES NO
  - e. Why or why not?
  - f. If NO: what would make you feel like a valuable member? Or do you even want to be one?

FINAL QUESTION: Is there anything you would like to add that you think I have missed or forgotten? Or anything you want to expand on that we have already discussed?

## Appendix L – Interview Guide (Phase II)

1. Tell me about your experiences in the extrajudicial sanctions program.
  - a. What was it like?
  - b. What did you have to do/what did your participation consist of?
  - c. Did you like it/dislike it? (why or why not)
  - d. Would you change anything about the program?
  - e. Did your participation in the program live up to your expectations?

### Meaningful Consequences

As a preface to this section, I will go over with the young person what they previously reported as their definition of meaningfulness.

2. Does this definition still hold true for you? Is there anything you would like to add or change about how you define what is meaningful?
  - a. Again, what factors come to mind when thinking of a ‘meaningful consequence’?
    - i. For example: family, friends, school, social life, hobbies, work, etc.
    - ii. Do any factors come up that you hadn’t listed in the phase one interview?
    - iii. How were the factors listed now and/or in the phase one interview impacted throughout your experience in this program?

Additionally, I will go over with the young person what they said regarding their assigned EJS.

3. Based on these definitions and descriptions, do you feel that your experience within the EJS program was meaningful?      YES      NO
  - a. What does that mean for you?
4. Has your experience within the EJS program affected your life?  
YES   NO
  - a. If YES, in what ways?
    - i. Do you feel differently about offending behaviour?
    - ii. Do you think that you will participate in the same behaviours in the future?
5. After participating in this program, do you think that there would be any other program or any other response to your behaviour that would have been more meaningful?
  - a. If so, how?



### **Accountability**

As a preface to this section, I will go over with the young person what they reported previously about accountability and this will be used as a point of reference for the following questions.

6. After your completion of this EJS, do you believe that you were held accountable for your behaviour?
- YES                      NO
- a. Why or why not?
8. Do you think that this type of response was appropriate for the type of offence?
- a. Why or why not?
9. Do you think any other type of response would have been just as appropriate (or more appropriate) for the offence committed?
- a. Why or why not?

### **Rehabilitation and Reintegration**

As a preface to this section, I will go over with the young person what they reported previously about rehabilitation and reintegration and this will be used as a point of reference for the following questions.

10. Based on what you said previously on how your involvement with this EJS might influence your behaviour, do you think that is what happened?
- a. Did it influence the way your view your behaviour or decision to reoffend in the future?
11. Has your experience with extrajudicial sanctions affected the way you see your role in the community? YES NO
- a. If yes, how in what ways?

### **Final Question**

12. If you could construct your own EJS program, what would it look like?
- a. Who would be involved?
- b. What would the requirements be?
- c. How would it run?